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THE  
ELEMENTS OF MORALITY,  
INCLUDING  
POLITY.

BY WILLIAM WHEWELL, D.D.,

AUTHOR OF THE HISTORY AND THE PHILOSOPHY OF THE  
INDUCTIVE SCIENCES.

IN TWO VOLUMES.

VOL. II.



*Δαμπάδια ἔχοντες διαδώσουσιν ἀλλήλοις.*

NEW-YORK:  
HARPER & BROTHERS, 82 CLIFF STREET.

1845.

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## BOOK IV.

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### RELIGION.

### OF DIVINE LAWS AND THEIR SANCTION.

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#### CHAPTER I.

#### NATURAL RELIGION.

566. THE Moral State and Moral Progress of each man are maintained by his conviction of certain Truths which are the foundations of Morality ; and among these Truths, one of the most important is this : that the course of action which is his Duty, is also his Happiness, when considered with reference to the whole of his being (546). This conviction, men for the most part derive from Religion ; that is, from their belief respecting God, and his government of Man. We believe God to be the Governor of Man, as a moral being (93). The Moral Law is his Command ; Conscience is his voice ; He sees and knows all the internal actions of which we ourselves are conscious ; He possesses an unbounded power to determine the Happiness or Misery of every one of us ; He exercises this power so as to give a sanction to his Laws ; appointing misery as the punishment of transgressions, and making a conformity to his Laws lead us to Happiness ; which Happiness will continue in another life when this life is past.

This is Natural Religion ; but further, as we have seen (357), we require to be taught by Religion how, when we have transgressed, Repentance and Amendment can avail, as a remedy for the sin committed ; how they can restore the health of man's moral life, and avert from man's condition and destination the consequences of sin. We also (367) require from Religion the hope of some power, in addition to the ordinary powers of our own minds, which is to be exercised upon us, in order to enlighten and instruct our conscience, and to carry on our moral progress. These requirements are responded to by Revealed Religion.

567. The belief which constitutes Natural Religion, takes possession of men's minds, in the course of their intellectual and moral progress. The idea of God is unfolded and fixed, and the points of belief which we have stated, are established, by the intellectual and moral culture of the mind. The steps of thought, which lead to these points of belief, may be different in different minds, according to the course which their intellectual and moral culture takes. In the mode of arriving at a belief in God, and in his moral government, the procedure of one mind is not a rule for other minds. To some persons, the Truths of Natural Religion may seem to be self-evident ; to other persons, they may become more evident, when connected by various steps of analogy and reasoning. We shall state some of the reasonings respecting God and his Government, which may prove the doctrines we have stated, to the satisfaction of those persons who require proofs of them.

We proceed with these reasonings.

568. From the existence of the world, we necessarily infer the existence of a Supreme Being, who is the Cause of the world's existence. The assemblage of things and events which we describe

by the abstract term Nature, directs us to a belief in an Author of Nature. Everything and every event must have a Cause; that Cause again must have *its* Cause, and so on. But this Series must terminate: there must be a First Cause. This Supreme Being, this Author of Nature, this First Cause, is God; the Creator of the World and of all that it contains, including Man.

569. But further; in many things which exist, and in many events which take place in the world, we see irresistible evidence, not only of a Cause, but of a Final Cause. We discern an End, an Intention, of the Creator of the world. Things are constructed so as to answer a Purpose, and we cannot help believing that they were *intended* to answer this Purpose. The eyes are made so that we can see; and on examining their structure, we are irresistibly led to believe that they were made in order that we might see. In the same way by an examination of the structure of man's body, we are led to believe that the muscles were made in order to move the limbs; and that the nerves were made, among other purposes, in order to excite the muscles to action.

That we see with our eyes; that the nerves excite the muscles, and the muscles move the limbs;—these are Laws of our Nature. But these Laws indicate the Intention of the Author of Nature. They are his Laws; the manifestation of his Purpose; the expression of his Will.

570. The Structure of our Minds, as well as of our bodies, is the work of God the Creator. Our Appetites, Desires, Affections, Reason, are given to us by him, as well as our Organs, Muscles, Nerves, Brain. And in the structure of our minds, as in that of our bodies, the faculties were assigned with intention and purpose. It was intended that Appetite should operate for the preservation of the individual; that the Affections should collect men into

Families and Societies; that the Reason should direct and control both the Appetites and the Affections; that the Sentiments of Approbation and Disapprobation should aid the Reason in this office. It was intended, for instance, that Shame should prevent our doing shameful actions.

571. Further; in virtue of his Reason, man seeks objects, as Means to Ends. We cannot believe otherwise than that it was intended, by his Creator, that he should do this; and should conform to Rules of action, derived from his doing this (18). It was intended, therefore, that he should conform to the Supreme Rule of Action; which is a necessary condition of these subordinate Rules (72). Consequently, this Supreme Rule of Action, namely the Moral Law, is the Law intended for him by his Creator. This Moral Law is the Law of God, and the Will of God.

572. The Moral Law is expressed by means of certain Moral Ideas, namely, Benevolence, Justice, Truth, Purity, and Order (232). These Ideas, therefore, express the Will of God, with regard to human actions. These Ideas were given to man, in order that he might, by them, direct his Actions. And when man frames his internal Standard of Action, his Conscience, in conformity with these Ideas, his internal Standard represents the Will of God; and his Conscience may be considered as the Voice of God (371).

573. But again; human action may be contemplated, not only as governed by Rules, successively subordinate to each other, and ultimately, by a Supreme Rule; but also, as directed to objects successively subordinate to each other, and ultimately to a Supreme Object (73).

The Supreme Object of human action is Happiness. Happiness is the object of human action contemplated in its most general form, and approved by Reason (544).

The Subordinate Rules of human action are enforced and sanctioned by the belief of success or failure, in the pursuit of some corresponding object. Thus, the Rule, that the Appetites must be controlled by the Reason, is enforced by our expectation of obtaining health and comfort, if we obey the Rule, and of forfeiting these benefits if we disregard the Rule. In like manner, the Rule that we must respect the Rights of all men, is enforced by the hope of Security and Tranquillity, which the general observance of such a Rule produces ; by the prospect of the Turbulence and Insecurity which exist in rude states of Society ; and by the fear of the condemnation and punishment which, in more settled Society, the violation of Rights produces to the offender.

In like manner, the *Supreme Rule* of Human Action is enforced and sanctioned by a belief that it leads to the *Supreme Object* of Human Action. As the Rule of Temperance points to Health and Comfort ; as the Rule of Respect for Rights points to Security and Tranquillity ; so the Supreme Rule of Rightness points to Happiness, which includes all other objects ; and which is an internal Comfort and Tranquillity requiring nothing beyond itself.

574. The Subordinate Rules are enforced and sanctioned by the belief that they lead to their respective objects ; and this belief is confirmed and verified by the result. Temperance *does*, as a general Rule, lead to Health and Comfort. Respect for legal Obligation *does* maintain social Tranquillity and individual Security. By the analogy of these Cases, we are confirmed in our belief that Moral Rightness leads to Happiness.

The Rules of Human Action, approved by the Reason, may be considered as *Laws* given to man by God ; and the Objects of Human Action, which are foreseen and obtained by conforming to such Rules, may be considered as *Promises* to man made

and fulfilled by God. The general declarations of God to men, made through his Reason, may be considered as conditional Promises. "If you are temperate, you shall be healthy." "If you conform to the laws of Society, you shall enjoy the benefits of Society." In like manner, there is a conditional Promise made to man through his Reason, that conformity to the Supreme Rule will be attended with the Supreme Good of his Nature. "If you are virtuous, you shall be happy." And as the Promises, thus made in the other cases, are verified by the result, we are led to believe, by analogy, that the Promise, in the last case, will also be verified by the result.

Hence the results of obeying and violating Moral Rules of Action, made known to us by our Reason, may be considered as Rewards and Punishments appointed by God. And thus we are led to look upon Happiness as the appointed Reward of Virtue, and Unhappiness as the appointed Punishment of Vice.

575. We conceive not only Will and Purpose, as residing in God, but also Affections. His creation abounds in Contrivances, which have, for their objects, the health, comfort, and enjoyment, of his creatures; and nowhere exhibits Contrivances which have, for their object, pain or disease. Hence, we conceive God as benevolent towards his creatures. Moreover, being led, as we have just said, to believe him to exercise a Moral Government, in which he rewards Virtue and punishes Vice, we conceive him as loving virtuous men, and hating vicious men; and as loving Virtue and hating Vice, in the abstract. We conceive Benevolence, Justice, Truth, Purity and Order, as the objects of his Love. And we are thus led to conceive these Ideas, as elements in our Idea of God. We conceive him as, in the most

perfect degree, Benevolent, Just, True, Pure, and Wise. This Moral Perfection is *Holiness*.

576. Benevolence, Justice, Truth, Purity, and Order, are the proper objects of our Love (233); and therefore God, in whom these Ideas are all comprehended, is the proper object of Love. With the Idea of God in our minds, the Love of God becomes a part of our Moral Progress. Our belief in the Holiness of God, and our Love of Him, confirm and uphold our expectation and belief that Happiness is the appointed Reward of Virtue, and Unhappiness the appointed Punishment of Vice.

577. The expectation and belief which are supported by these reasonings and analogies, become constantly stronger, as our moral and intellectual culture proceed. But though men have such a general and settled expectation and belief, that Happiness is the appointed Reward of Virtue; it is a matter of great doubt and obscurity, to the eye of Reason, in what manner this is to be brought to pass. Some have taught that the virtuous man is always happy, by that condition of his mind which Virtue produces. Some have inferred that, since happiness is not always the Reward of Virtue in the life of men; this life must be succeeded by another life, in which the Promise is fulfilled, and the Reward bestowed. They have taught that man has a *Soul*, which is not destroyed by the accidents which happen to the body; and that the Soul, surviving the death of the mortal Body, is the subject of God's Rewards and Punishments in another world.

578. The doctrine that man has a Soul, of which Consciousness, Will, Reason, Affections, Memory, Imagination, are Faculties, as Motion, Sensation, Nutrition, are Faculties of the Body, has been generally believed on other grounds also. I am conscious of remaining the same person; while my body is constantly changing by the process of nutrition. I



will certain acts; in which the body is only the instrument of the will. I reason; and in doing so, refer to Ideas, or principles of Reasoning, common to me along with all mankind; these Ideas or principles cannot be conceived as residing in the body. I love my parents, my brothers, and sisters, my children; these affections do not belong to the body. By acts of duty, habits of duty and virtue are formed; which are not habits of mere bodily action. And by all these processes,—Will, Reason, Affection, Acts of Duty,—permanent effects are produced upon our being, which can be understood most simply as effects produced on the Soul. It is the Soul, which is permanently affected by the intellectual and moral culture of which we have spoken (293); as the body is permanently affected by bodily exercises. It is the Soul, which is tainted and distempered by transgression (349); and it is the Soul which is to be restored by Repentance and Amendment, if restoration be possible (357). It is the Soul, in which must take place the constant and unlimited moral progress, of which we have spoken (300): which, as we have said, must go forwards to the very end of life. And it is very natural to suppose that by this Progress, the Soul is fitted for Another Life, in which its condition will correspond with the nature of its Moral Progress in this life. If the Soul have reached a high point of Moral Progress on this side of death, we may suppose that it will, on the other side of death, if not on this, find a corresponding state of Happiness. If, on the contrary, habits of virtue have been neglected, transgressions committed, and habits of vice formed here, the Soul must be unfitted for enjoying, hereafter, any Happiness, such as we can suppose God to give to men's Souls.

579. Thus we are led to believe in a Future State of being, in which God's Moral Government will be carried on to its completion. But even in this present

state of being, we must conceive ourselves and the world to be under the Government of God. God must be the Governor, as he is the Creator, of the world ; for as the Creator, he formed, and placed in it, those Springs of Progress by which its course is carried on and regulated. We cannot help believing that, like all other parts of the Creation, the course of the world of human doing and suffering must have a Purpose ; and this Purpose must be in harmony with the Moral Government of God, to the belief of which we have already been led (574). The Course of this world, we cannot but believe, is directed by God's *Providence*. It is a Divine Dispensation.

580. The doctrines of Natural Religion, as we have stated them, thus present to us these Ideas ; the Moral Government of God and his Providence. So far as we borrow our Light from Natural Religion, we assume these Ideas, of Moral Government and Providence, to be realized in the World to Come ; and we regard this world as the Prelude and Preparation to that. But we cannot reasonably be satisfied with a mere *Idea* of the Course of this World. We must attend to the *Fact* also, that is, to the History of the World : and thus we are led to Revealed Religion.

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## CHAPTER II.

### CHRISTIAN REVELATION.

581. THE *Idea* of the Course of the World, according to Natural Religion, is, that it is directed by God's Providence so as to be in harmony with his Moral Government. The *Fact* which corresponds to this *Idea* is supplied to us by the Scriptures of the Old and New Testament.

We learn, from these Scriptures, that besides the transactions of men with men, the course of the world has also included transactions of God with men. There have taken place, in the History of the World, *Revelations* of the Commands and Promises of God, and of the Methods by which men are to be enabled to obey these Commands, and to receive the benefit of these Promises.

The central point of these Revelations is the coming of Jesus Christ upon Earth. To this point, all ancient History converges, by means of Early Revelations; Prophecies; the Selection of a special nation, the Jews, as the depositaries of Prophecy; and the successive failure of all attempts, made by moral and philosophical teachers, in other nations, to solve the perplexities of man's condition, by the light of Reason, without the aid of Revelation. From this point, a new Dispensation begins.

582. A Revelation was made from God to man, through Jesus Christ. And this Revelation amply and entirely confirms the expectation and belief which Natural Religion offers to us (574, 578), that Happiness is the appointed Reward of Virtue, Unhappiness the appointed Punishment of Sin; that there is a life, after this, in which this Promise and this Threatening are realized; that the Soul survives the death of the present Body, and is the subject of God's Rewards and Punishments in another world.

583. Along with this confirmation of the expectation and belief which Natural Religion offers, the Revelation made to man, through Jesus Christ and his Disciples, conveys to us many Precepts of Duty, and Doctrines concerning the grounds of Duty, and concerning the best means of attaining Virtue. These Precepts and Doctrines confirm the Precepts and Doctrines of Morality which we have delivered, as far as these go: but the Christian Revelation offers to us many Truths concerning the grounds of

Duty, and the means of attaining Virtue, which Morality alone cannot arrive at. These Precepts and Doctrines constitute *Christian Morality*.

584. The ground of our Duty, as presented to us by Religious Teaching, is, that it is the Will of God. The Will of God is the Supreme Rule of our Being.

But we also conceive (517) the Ideas which are contained in the Supreme Rule of our Being, namely, Benevolence, Justice, Truth, Purity, and Order, as parts of the Character of God. Hence, to conform our minds to those Ideas, is to conform our character to the Character of God. To approach to this Character, is to approach to *the Image of God*; and our Moral Progress may be spoken of as an approach to the Image of God. But in using such language, we must ever bear in mind the Supreme Reverence, which is due to God, as the Perfect and Central Source of those moral qualities, in which we very imperfectly and distantly participate.

585. The Character of Jesus Christ, while upon the earth, was a Human Character of the highest Benevolence, Justice, Truth, Purity, and Obedience to Law. In his Character, we have the moral perfections, which we conceive in God, embodied and realized in man. Hence, *the Image of God in Christ* is the summit of the Moral Progress, which it is our Duty to pursue: and this object is presented to us by Christian teaching, as the aim and end of our moral career.

586. But Jesus Christ did not only teach the Will of God, and exemplify the highest moral excellence of man. He also suffered death upon the cross; was buried; rose again the third day; and ascended into heaven. And we learn, from Christian teaching, that these events were most important and essential parts of the New Dispensation. We learn,

that, through the efficacy of these events, we may be saved from the consequences of our sins.

587. This part of Christian doctrine contains an answer to the inquiries which, as we have already said, the Moralist is driven to make of the Religious teacher, respecting the efficacy of Repentance, and the provision made by God for saving man from the effects of sin (357). The Christian Revelation speaks to us of God's Pardon and Forgiveness of Sins, through which those who have transgressed and repented of their transgressions, may in some cases be saved from the punishment of sin, and restored to his favour. It teaches us also\* that the Rules of God's Government are such as not to admit of pardon directly and immediately upon Repentance, or by the sole efficacy of it. But it teaches, at the same time, what, without a Revelation, we could only have hoped, that the Moral Government of the world from the beginning was such as to admit of an interposition which might avert the fatal consequences of vice; and that vice, by that means, does admit of pardon. Christian Revelation teaches us, that the Laws of God's Government are compassionate, as well as simply good; and that he has provided an interposition, to prevent the destruction of human kind by the infliction of merited punishment, whatever that destruction, if not prevented, would have been. It was a part of the teaching of Jesus Christ, that (John iii., 15) *God so loved the world, that he gave his only begotten Son, that whosoever believeth in him should not perish, but have everlasting life. God sent not his Son into the world to condemn the world, but that the world through him might be saved.* He interposed by sending his son Jesus Christ, so as to prevent that execution of justice upon Sinners, which must have followed, if it had not been for such interposition.

\* Butler, *Anal.*, B. II., c. 5.

588. Further: the Christian Revelation contains important teaching upon another of the difficulties of Morality (367); namely, the means provided for carrying on our moral progress, in addition to the ordinary powers of our own minds.

Natural Religion suggests to us (578), that by this Progress the Soul is fitted for another Life; but we learn from Christian Revelation, that there are conditions of this Progress, of which Natural Religion and Morality cannot inform us. These means are described to be; a Belief in Jesus Christ, the Son of God; and a Participation in the Spirit which God sent upon earth at his coming, and infused into the Souls of his Disciples. In the same portion of Christian teaching to which we have already referred, it is said (John iii., 18 and 36), *He that believeth on him is not condemned; but he that believeth not is condemned already, because he hath not believed in the name of the only-begotten Son of God. . . . He that believeth on the Son hath everlasting life; and he that believeth not the Son shall not see life: but the wrath of God abideth on him.* Jesus Christ himself said (John iii., 5): *Except a man be born of water and of the Spirit, he cannot enter into the kingdom of God.* He promised to his Disciples a Spirit which was to *guide them into all truth* (John xvi., 13). They were taught that it *helped their infirmities* (Rom. viii., 26). Hence this Spirit was called *the Comforter* (John xiv., 16), and was to *dwell in them* (Rom. viii., 9): and when Jesus Christ left the earth, his parting command was (Matth. xxviii., 19), *Go ye and teach all nations, baptizing them in the name of the Father, and of the Son, and of the Holy Spirit: and, lo, I am with you always to the end of the world.*

589. By the help of the means thus provided by God, and by the aid of this Spirit, a Christian man is led to approach to the Image of God in Christ (524): he is in a special sense united with Christ, as

the branch is united with the tree (John xv., 5), or as the members are united with the body (1 Cor. xii., 27 ; Eph. v., 30). His Soul receives nutriment from Christ ; which is expressed by saying, that he feeds upon Christ (John vi., 51) : and is symbolically expressed by eating bread and drinking wine, in remembrance of him (Luke xxii., 19), and in obedience to his command.

590. Believers in Christ, thus united with him, are united with each other, as members of a living Body (Rom. xii., 4 ; 1 Cor. xii., 12 ; Eph. iv., 25). This Body, of which Christ is the head, is the Church (Col. i., 18). *He is the head of the body of the Church.* To this Body, thus united in Christ, belong unity in itself, perpetual existence, and the possession of religious Truth, through the guidance of the Holy Spirit. This Body is the Universal or Catholic Church of Christ.

591. The Association of Believers in Christ, of which we have spoken, the Church, is bound together by means of certain habitual formal social acts. There is one such act by which members of the Church are admitted into it, namely, *Baptism*. There is another such act by which they commemorate their union with Christ according to his Command, namely, *the Lord's Supper*. There are acts by which they express their affections towards God, namely, acts of worship, *Prayer and Praise*. There are acts in which they express their Christian belief, or receive Christian Instruction from their Teachers ; *Profession of Faith*, and *Preaching*. All these are *Christian Ordinances*.

592. The Souls of men are often also called their *Spirits* ; especially when they are considered as the subjects of God's government. His government extending over such subjects is his *Spiritual Kingdom*. Hence religious matters are called *Spiritual* : and to these, as the concerns of an eternal world, are

opposed *temporal* or *secular* matters, which belong only to time or to this world (*tempus, seculum*).

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## CHAPTER III.

### CHRISTIAN MORALITY.

593. WE have now to treat of Christian Morality ; not as being a different Morality from that Rational Morality of which we have hitherto treated ; but as throwing new light upon the Morality of mere Reason, and giving it new supports. The Christian Religion recognizes the same Duties, which we have put forward on grounds of Reason ; Duties of Benevolence, Justice, Truth, Purity, Order ; and the general Duty of Moral and Intellectual Progress. But the Christian Religion invests all these Duties with new Sanctions ; and carries our Progress much further, by making it not only a moral and intellectual, but a Religious Progress. The Religious Progress of our affections and thoughts carries us towards a condition, in which all Special Duties are the necessary development and manifestation of Religious Principles of Action. If we had, in this work, to treat of Religion as our primary and principal subject, it might be the more proper course to begin with Religious Principles of Action, and from them, to deduce Special Rules of Action. Such is the course often followed by Religious Teachers. But since our primary and principal subject is Morality, we shall adopt, in treating of Religious Morality, that order of matters which we have already found to be presented to us, by the nature of our subject.

594. We may add, that Christian Teaching nowhere presents to us any Authoritative Scheme or



System of Duties and Principles, which we reject, in taking the guidance of our own. The indications of System, in the notices which we have on such subjects, in the New Testament, are vague and various. Christ, in his teaching, recognizes the division of Duties, into Duties towards God, and Duties towards our neighbours. Matt. xxii., 37 : *Thou shalt love the Lord thy God with all thy heart, and with all thy soul, and with all thy mind. This is the first and great commandment. And the second is like unto it : Thou shalt love thy neighbour as thyself. On these two commandments hang all the Law and the Prophets.* And in like manner, in Mark xii., 30. This is said of the Law of Moses ; but it is spoken of that Law as being, what in the apprehension of the Jews it was, a complete body of human Duties. We shall explain our Duties towards God, when we come to speak of our Religious Culture. Taking the Ten Commandments as the summary of the Law of Moses, the first four refer to Duties towards God. The fifth, sixth, seventh, eighth and ninth commandments, declare Obligations, rather than Duties. We have already referred to the Rules, *Thou shalt obey thy Parents ; Thou shalt not kill ; Thou shalt not commit adultery ; Thou shalt not steal ; Thou shalt not utter a solemn falsehood ;* as expressions of the Rights of Obedience, Personal Security, Marriage, Property, Contract. The tenth commandment, *Thou shalt not covet,* is, however, a Moral Precept, and not a Law, in the strict sense of the term.

595. The Christian teachers justly considered that Obligations are included in Duties, and do not need to be separately enjoined by the Moralist. They also conceived all Duties to be included in the Duty of Benevolence. Thus St. Paul says (Rom. xiii., 8), *Owe no man anything (that is, reckon no Duty), but to love one another. He that loveth others hath fulfilled the Law. This, Thou shalt not commit adultery,*

*Thou shalt not kill, Thou shalt not steal, Thou shalt not bear false witness, Thou shalt not covet, and if there be any other commandment, it is briefly comprehended in this saying, Thou shalt love thy neighbour as thyself.* When we come to treat of our religious progress, we shall have to speak of this Benevolence or Love, as a Christian Principle of action.

596. In following out the moral Principles of action into their results, in special Duties, the Relative Duties formerly mentioned (278) are naturally arranged according to the Relations to which they belong. Accordingly, we have enumerations of the principal Relations, with their corresponding Duties, in various parts of the New Testament; especially in the two Epistles of St. Paul, to the Ephesians (chap. vi.), and to the Colossians (chapters ii., iii). These two enumerations agree very nearly: and state the Relative Duties of Wives and Husbands; Children and Parents; Servants and Masters. In the Epistle to the Romans (chap. xiii.), we have the relative Duties summarily enjoined; *Render unto all their dues*; with an especial notice of the Duty of Obedience to government.

Duties, as enjoined upon us by Christian teaching, and on Christian grounds, are *Christian Duties*.

597. We shall now proceed to collect the principal Precepts with regard to Duties, which occur in the New Testament: arranging them according to the Heads of Duty which we have already found it convenient to adopt: namely; Duties of the Affections: Duties respecting Property and other objects of Desire: Duties connected with Truth: Duties connected with Purity: Duties of Obedience and Command. We had, besides these, to speak of Intellectual Duties, and in doing this we were led to speak of man's Moral Education and of Religion, as a necessary part of this (565). The Duties thus arising have, for their object, man's Religious Progress.

## CHAPTER IV.

CHRISTIAN PRECEPTS CONCERNING DUTIES OF  
THE AFFECTIONS.

596. THE Christian Precepts concerning Duties of the Affections include the *Moral Precepts* formerly given (272—282); but carry the teaching farther, both as to its requirements and its motives. Beginning from the obligation to abstain from all violence, these precepts inculcate the duty of controlling and repressing all intention of violence, and the affections which give rise to such intentions: they inculcate also the duty of fostering and exercising affections of good-will with corresponding intentions and actions. They enjoin the virtues which consist in the habits of such affections, intentions, and actions. These duties and these virtues are enforced by motives depending upon religious truths. Some of these Precepts are the following.

599. In *Matth. v., 21*, Christ says, *Ye have heard it was said by them of old time, Thou shalt not kill, and whosoever shall kill shall be in danger of the judgment.* This is the command of law; but the precept of duty goes much further: *Whosoever shall be angry with his brother man without a cause, or who shall use reviling and contemptuous words to him, shall be in danger of the judgment of God and the fire of hell.* And again, *ver. 24, Leave thy gift before the altar, and go thy way: first be reconciled to thy brother, and then come and offer thy gift,* and hope for the favour of God. And these duties extend to adversaries as well as to friends. Thus, *ver. 25, Agree with thine adversary quickly whiles thou art in the way with him.* Be ready to dismiss thine enmity, and to disclaim it on the first occasion. It is a duty to disclaim from our hearts all desires of revenge and

retaliation. Thus, ver. 38, *Ye have heard that it hath been said (in the Law of Moses), An eye for an eye and a tooth for a tooth ; but I say unto you, that ye make not any such rule the measure of your affections. Instead of retaliating evil, be ready to submit to it. Resist not evil ; but whosoever shall smite thee on the right cheek, turn to him the other also.* Suppress all emotions of anger, even such as are excited by personal violence, so far as your personal resentments are concerned. Not only is anger to be thus suppressed, but the opposite affection of love is to be entertained instead. Thus, ver. 43, *Ye have heard that it hath been said, Thou shalt love thy neighbour and hate thine enemy : but I say unto you, Love your enemies. Bless them that curse you ; do good to them that hate you, and pray for them that despitefully use you and persecute you ; that ye may be the children of your Father which is in heaven : for he maketh his sun to rise on the evil and on the good, and sendeth rain on the just and the unjust.* These precepts are also recorded in St. Luke vi., 29—35, where they are summed up with this (verse 36), *Be ye merciful, as your Father also is merciful.*

600. The like precepts against revenge and anger are given by the Apostles of Christ. Thus St. Paul says to the Romans (xii., 19), *Dearly beloved, avenge not yourselves, but rather give place unto wrath : (either, give way to the wrath of an adversary, or rather leave the punishment of wrong to God ; according to what follows :) for it is written, Vengeance is mine ; I will repay, saith the Lord.* In like manner he writes to the Thessalonians (1 Thess. v., 14), *Be patient toward all men : see that none render evil for evil to any man.* And St. Peter (1 Pet. iii., 9) says the same thing, *Not rendering evil for evil, or railing for railing : but contrariwise, blessing ; knowing that ye are thereunto called that ye*

*should inherit a blessing.* St. James (i., 19) says, *Let every man be slow to wrath : for the wrath of man worketh not the righteousness of God.* St. Paul says to the Ephesians (Eph. iv., 31), *Let all bitterness, and wrath, and anger, and clamour be put away from you, with all malice.* He gives the same injunction in nearly the same words to the Colossians (Col. iii., 8). To the Corinthians he says (1 Cor. xiv., 20), *In malice be ye children, but in understanding be ye men.* He calls the angry affections *carnal* (1 Cor. iii., 3 ; so St. James iv., 1) ; and speaks of *the works of the flesh* (Gal. v., 19), among which he mentions *hatred, variance, wrath, strife, seditions, heresies, envyings, murders.* The forgiveness of injuries is inculcated. Christ taught his disciples (Matt. vi., 14), *If ye forgive men their trespasses, your heavenly Father will also forgive you : but if ye forgive not men their trespasses, neither will your Father forgive your trespasses.* And accordingly, St. Paul says (Col. iii., 12), *Put on therefore, as the elect of God, holy and beloved, bowels of mercies, kindness, humbleness of mind, meekness, longsuffering ; forbearing one another, and forgiving one another, if any man have a quarrel against any ; even as Christ forgave you, so also do ye.*

601. The opposite affection, Love, is inculcated by Christ, at first as including in its spirit our obligations towards men : as in Matth. xix., 19, and xxii., 39. *Thou shalt love thy neighbour as thyself : on these commandments hang all the Law and the Prophets.* So Mark xii., 31. Yet in referring to the nature and extent of the affection which he enjoined, he called it a *new commandment.* (John xiii., 34), *A new commandment I give unto you, That ye love one another ; as I have loved you, that ye also love one another :* which again is repeated John xv., 12, and again xv., 17. Accordingly St. John often repeats such injunctions in his Epistles ; as 1 John

iii., 11. *This is the message that ye heard from the beginning, that we should love another.* And so, 2 John 5, and 1 John ii., 7. Though the commandment was old, the light which Christ had brought into the world made it new. 1 John ii., 8, *A new commandment I write unto you, because the darkness is past and the true light now shineth. He that saith he is in the light, and hateth his brother, is in darkness even until now. He that loveth his brother abideth in the light. But he that hateth his brother is in darkness.* Again, 1 John iv., 7, *Beloved, let us love one another : for love is of God ; and every one that loveth is born of God, and knoweth God. He that loveth not knoweth not God ; for God is love.* And after referring to the love of God for us as shown in his sending his Son to be the propitiation for our sins, he adds, ver. 11, *Beloved, if God so loved us, we ought also to love one another.*

St. John extends his injunctions to actions (1 John iii., 18, 17, 16), *My little children, let us not love in word, neither in tongue, but in deed and in truth. Whoso hath this world's goods, and seeth his brother have need, and shutteth up his bowels of compassion from him, how dwelleth the love of God in him ? We ought to lay down our lives for the brethren.* In the same manner, St. Paul says (Rom. xiii., 8, 9, 10, and Gal. v., 14), that *all the commandments are comprehended in this one saying, Thou shalt love thy neighbour as thyself : that he that loveth another hath fulfilled the Law :* for he adds (Rom. xiii., 10), *Love worketh no ill to his neighbour, therefore love is the fulfilling of the law.* To the Ephesians he says (Eph. v., 2), *Walk in love, as Christ also hath loved us.* To the Thessalonians (1 Thess. iii., 12), *The Lord make you to increase and abound in love one towards another :* and in many other places St. James calls the precept above referred to a *Royal Law*, as governing all our duties. James ii., 8, *If*

*ye fulfil the royal law according to the Scripture, Thou shalt love thy neighbour as thyself, ye do well.*

602. The affection here inculcated is described also by other names, as *brotherly love* (φιλαδελφία) (Heb. xiii., 1). The term particularly used by the Apostles, and especially by St. Paul, is that which we usually translate *charity* (ἀγάπη, translated in the Latin *charitas*, from *charus* or *carus*, whence *charity*). St. Paul (1 Cor. xiii., 4) describes this affection; *Charity suffereth long, and is kind; envieth not; vaunteth not itself; is not puffed up; doth not seek her own; is not easily provoked; thinketh no evil; [beareth all things πάντα στέγει;] hopeth all things; endureth all things.* And this virtue he describes as a proper object of Christian pursuit (1 Cor. xiv., 1), *Follow after Charity.* (Col. iii., 14), *Above all these things, put on charity, which is the bond of perfectness.* So 1 Tim. vi., 11, 2 Tim. ii., 22, where the word is the same, though translated *love* in the former place. So Peter (2 Pet. i., 7), *Add to brotherly kindness, charity* (ἐπιχορηγήσατε... ἐν τῇ φιλαδελφίᾳ ἀγάπῃ) as an additional step in Christian virtue. And this is the word which is translated *love* in many of the passages above quoted, as 1 John iv., 8, ὁ Θεὸς ἀγάπη ἐστίν.

Other terms are also used for the affections of this kind. Thus, Matth. v., 7, *Blessed are the merciful, for they shall obtain mercy* (ἐλεήμονες: but in Luke vi., 36, the Greek word is οἰκτιρμονες). Σπλαγχνα οἰκτιρμῶν, *bowels of mercies*, are enjoined (Col. iii., 12). In 1 Pet. iii., 8, we have a similar expression translated *pitiful* (εὐσπλαγχνοί); but Eph. iv., 32, *tender-hearted.* *Compassionate*, συμπαιδείς (1 Pet. iii., 8), is a term also used.

603. The word for *pity* (ἐλεημοσύνη) came to signify the evidence of pity which is given by bounty to the poor. It had this signification among the Jews. So Matth. i., 1, *Take heed that ye do not*

*your alms before men to be seen of them.* The word *alms* is contracted from *ἐλεημοσύνη*, *elemosyne* ; as is the case with the corresponding words in other European languages (Ital. *Elimosina*, *Limosina*. Span. *Limosna*. Old Fr. *Almosne*, *Aumosne*, whence modern Fr. *Aumône*. German *Almosen*. Anglo-Saxon *Ælmesse*, *Ælmes*). In Luke xi., 41 ; xii., 33, we have *give alms*. (So Acts iii., 2 ; ix., 36 ; x., 2, 4, 31 ; xxiv., 17.) In like manner the word *charity* in English is often used in the sense of alms.

604. *Meekness* is a Christian virtue often enjoined. Thus Matth. v., 5, *Blessed are the meek, for they shall inherit the earth* (οἱ ἡμεῖς). And xi., 29, *Learn of me, for I am meek and lowly in heart : and ye shall find rest unto your souls*. St. Paul (Gal. v., 23) enumerates *meekness* among the *fruits of the spirit*, and enjoins it in many places (Gal. vi., 1 ; Eph. iv., 2 ; Col. iii., 12 ; 1 Tim. vi., 11 ; 2 Tim. ii., 25 ; Tit. iii., 2 ; Jam. i., 21, and iii., 13 ; 1 Pet. iii., 15).

605. We are to be meek as to our own claims, and attentive to the claims of others. (Phil. ii., 4), *Look not each man on his own things, but each on the things of others*. (Eph. v., 21), *Submitting yourselves one to another in the fear of God*. (1 Pet. v., 5), *Yea, all of you be subject one to another, and be clothed with humility*. (Phil. ii., 3), *In lowliness of mind let each esteem other better than themselves*. (Rom. xii., 10), *Be kindly affectioned one to another* (φιλασσυῖν), *with brotherly love, in honour preferring one another*. So (Rom. xiii., 7), *Render honour to whom honour is due*. Which St. Peter (1 Pet. ii., 17) puts more largely, *Honour all men*. The expression of this feeling is courtesy. (1 Pet. iii., 8), *Be courteous* (φιλόφρονες). Other marks of good will are inculcated ; as to exercise hospitality (1 Pet. iv., 9), *Use hospitality one to another without grudging* : to



avoid quarrels. (Rom. xii., 18), *If it be possible, as much as lieth in you, live peaceably with all men.*

806. The above precepts condemn anger when it is caused by something which thwarts our desires. But religion, as well as morality, encourages virtuous indignation against what is wrong; and permits the expression of this affection by words and acts. Of this we have examples in Jesus Christ himself (Mark iii., 5), *He looked round about him on them with anger, being grieved at the hardness of their hearts.* And the like feeling is expressed (Matth. xxiii., 13—17) in words, where he says, *Woe unto you, Scribes and Pharisees, hypocrites; Woe unto you blind guides; Ye fools and blind.* And this language he uses even to his disciples (Luke xxiv., 25), *O fools and slow of heart to believe all that the prophets have spoken.* St. Paul uses the like language (Gal. iii., 1), *O foolish Galatians, who hath bewitched you, that ye should not obey the truth.* St. James's expression is nearly equivalent (Jam. ii., 20), *Wilt thou know, O vain man, that faith without works is dead.* We have the like feeling expressed in act (John ii., 15), *When he had made a scourge of small cords, he drove them out of the temple, and poured out the changers' money, and overthrew the tables.* St. Paul recognizes blameless anger, and only limits its duration (Eph. iv., 26), *Be ye angry and sin not; let not the sun go down upon your wrath.* And to the Corinthians (2 Cor. vii., 11) he reckons certain feelings of this kind among the results of godly sorrow. *What carefulness it wrought in you, yea, what clearing of yourselves, yea, what indignation, yea, what fear, yea, what vehement desire, yea, what zeal, yea, what revenge.* (ποσην σπουδην, ἀλλὰ ἐπιλογισαί, ἀλλὰ ἀγανάκτησιν, ἀλλὰ φόβον, ἀλλὰ ἐπιπόθῃσιν, ἀλλὰ ζήλον, ἀλλὰ ἐκδίκησιν). And he rejoices that they had vindicated themselves with such feelings. Indignation, and carefulness, or earnestness, are here combined with

*zeal*; which is often mentioned as a term of praise (Rom. x., 2), *I bear them (the Jews) record, that they have a zeal of God, but not according to knowledge.* So (2 Cor. ix., 2), *Your zeal hath provoked many.* And so in other places (Acts xii., 3, Phil. iii., 6), *Zeal* is spoken of approvingly, so far as it is *Zeal*, though condemned as *Mistaken Zeal*. The term is used with reference to special objects. Thus to the Corinthians (1 Cor. xiv., 12), *Forasmuch as ye are zealous of spiritual gifts, seek that ye may excel to the edifying of your church.* (Tit. ii., 14), *He gave himself for us that he might redeem us from all iniquity, and purify unto himself a peculiar people zealous of good works.*

607. Earnestness is enjoined in other expressions, as (2 Cor. viii., 16), *God put the same earnest care in the heart of Titus for you* (ἐνὸς διν). (Heb. ii., 1), *We ought to give the more earnest heed to the things which we have heard, lest at any time we let them slip* (περισεσφύτως ἡμᾶς προσεχειν). (Jude 3), *Beloved, when I gave all diligence to write unto you of the common salvation, it was needful for me to write unto you and exhort you that ye should earnestly contend for the faith which was once delivered unto the saints* (ἀγγωνίζεσθαι). Expressions including the notion of *striving* and *contending* are often used. As (Luke xiii., 24), *Strive to enter in at the strait gate* (ἀγγωνίζεσθαι). So 1 Tim. vi., 12, *Fight the good fight of faith, lay hold on eternal life* (ἀγγωνίζου τὸν καλὸν ἀγῶνα.) And 2 Tim. iv., 7, *I have fought a good fight, I have finished my course, I have kept the faith.* (Col. i., 29), *That we may present every man perfect in Christ Jesus. Whereunto I also labour, striving according to his working, which worketh in me mightily* (ἀγγωνίζομαι κατὰ τὴν ἐνέργειαν αὐτοῦ). Also (2 Pet. iii., 14), *Be diligent that ye may be found of him in peace, without spot and blameless* (σευδόμενοι). 2 Cor. viii., 7), *Ye*

*abound in everything, in faith, in utterance, in knowledge, in all diligence (ἁπλῶς ἐν παντί).*

608. The injunctions not to return evil for evil, and rather (1 Cor. vi., 7), *to take wrong*, and to submit to revilings and blows, do not prohibit Christians from protecting themselves by the aid of laws against violence and contumely. The Magistrate is described by St. Paul as *a minister of God, appointed to execute wrath on the man that doeth evil* (Rom. xiii., 1); and by St. Peter, as *sent for the punishment of evil-doers* (3 Pet. ii., 13). Accordingly, we find St. Paul appealing to the existing laws, and expressing indignation at the violation of them. Thus when the magistrates who had put St. Paul and St. Peter in prison at Philippi, offered to release them (Acts xvi., 37), *Paul said unto them, they have beaten us openly uncondemned, being Romans, and have cast us into prison : and now do they thrust us out privily ? nay verily ; but let them come themselves and fetch us out.* When Ananias commanded those who stood near Paul to smite him on the mouth (Acts xxiii., 3), *Paul said unto him, God shall smite thee, thou whited wall : for sittest thou to judge me after the law, and commandest me to be smitten contrary to the law ?* And when at Cæsarea Paul was urged to go to Jerusalem, to be there tried on the charges which were brought against him by the Jews, he protected himself by his legal privilege, and said, *I appeal unto Cæsar.*

609. These precepts which have been adduced are not to be received as positive and rigorous laws which are to be applied literally to external acts. When they make mention of external acts ; as in the precept, *Whosoever shall smite thee on the right cheek, turn to him the left. And if any man will sue thee at the law, and take away thy coat, let him have thy cloak also :* that these precepts are not to be thus literally interpreted, is evident from what has

been said respecting the conduct of the Apostles themselves. The precepts are to be understood as Moral Precepts ; that is, as enjoining internal acts, control of the will and intention, a discipline of the affections, and the promotion of a certain disposition. The precepts indicate the disposition at which Christians are to aim, as the opposite of that resentful unyielding temper, which would return a blow for a blow, and would insist on every particle of its right.

610. The reasons which in these precepts are connected with the injunction, must be accepted in several cases as imperfectly expressing the Christian ground of the duty. Thus, in the injunction, Matth. v., 25. *Agree with thine adversary*, it is added, *lest at any time the adversary deliver thee to the judge, and the judge deliver thee to the officer, and thou be cast into prison ; verily I say unto thee, Thou shalt by no means come out thence, till thou hast paid the uttermost farthing.* Such a suggestion must be considered as recommending a placable disposition for its external advantages, in the first place ; in order that the acquisition of such a disposition on grounds of prudence, might prepare the way for a true application of it on grounds of religion. In like manner, he who is angry with his brother without a cause, and who reviles him, is said to be in danger of the judgment and of the council, that is, of human tribunals ; but from the context it appears, that the condemnation of God is implied, as the true ground of the warning, in these clauses, as well as where it is expressed by the fire of hell. The Benevolent Affections are enjoined as the command of God.

611. But further : Christians are urged to imitate their heavenly Father and their Saviour Christ. *Do good to them that hate you, that ye may be the children of your Father which is in heaven : Be ye merciful, as your Father also is merciful. If ye forgive men their trespasses, your heavenly Father will*

*also forgive you : forgiving one another, even as Christ also forgave you. So St. Peter (1 Pet. ii. 23), Christ left us an example, who, when he was reviled, reviled not again : when he suffered, he threatened not. And Christ enjoins, as I have loved you, that ye also love one another. So St. John, if God so love us, we ought to love one another. Love is of God. God is love. Again, our love of our neighbour is the evidence of our love of God. Whoso shutteth up his compassion from his brother, how dwelleth the love of God in him ? So (1 John iv., 20), If a man say I love God, and hateth his brother, he is a liar : for he that loveth not his brother whom he hath seen, how can he love God whom he hath not seen ? And this commandment have we from him, That he who loveth God love his brother also. Christians are also reminded that they are brothers, by being all children of one Father ; and as brothers, bound to love one another. In opposition to the works of the Spirit (Gal. v., 22) which are required of Christians, and which are love, joy, peace, long-suffering, gentleness, goodness, faith, meekness, temperance ; all angry affections are called works of the flesh, as it is declared that they which do such things shall not inherit the kingdom of God.*

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## CHAPTER V.

### CHRISTIAN PRECEPTS CONCERNING PROPERTY AND OTHER OBJECTS OF DESIRE.

612. Such kindly affections towards our neighbours as have been above spoken of, show themselves in giving to them what they need : and Christian Precepts enjoining such duties are mixed with those just quoted. But the kindly affections were there

urged upon us in opposition to the angry ones ; we are now to consider the precepts in which they are urged in opposition to the love of property, which, when predominant, is *covetousness*. Thus in the Sermon on the Mount (Matth. v., 42), *Give to him that asketh thee, and from him that would borrow of thee turn thou not away*. So (Luke xiv., 13), *When thou makest a feast, call the poor, the maimed, the lame, the blind : and thou shalt be blessed, for they cannot recompense thee : for thou shalt be recompensed at the resurrection of the just*. (Acts xx., 35), Paul says to the Ephesian elders, *I have showed you all things, how that labouring ye ought to support the weak, and to remember the words of the Lord Jesus, that it is more blessed to give than to receive*. So to the Corinthians (2 Cor. ix., 6, 9), *He which soweth sparingly, shall reap also sparingly ; and he which soweth bountifully, shall reap also bountifully*. Every man, according as he purposeth in his heart, so let him give ; for God loveth a cheerful giver. And God is able to make all grace to abound toward you, that ye always having all sufficiency in all things may abound to every good work. So Paul commends the Philippians for their sending him assistance : and says (Phil. iv., 17), *Not because I desire a gift, but I desire fruit that may abound to your account*. He calls it a sacrifice acceptable, well-pleasing to God : and adds, *But my God shall supply all your need according to his riches in glory by Christ Jesus*. So (1 Tim. vi., 17—19), *Charge them that are rich in this world, that they be not highminded, nor trust in uncertain riches, but in the living God, who giveth us richly all things to enjoy ; that they do good ; that they be rich in good works ; ready to distribute, willing to communicate ; laying up in store for themselves a good foundation against the time to come, that they may lay hold on eternal life*. (Heb. xiii., 16), *To do good and to communicate forget not, for with such sacrifices God is*

well pleased. And St. James (Jam. ii., 15, 16), *If a brother or sister be naked and destitute of daily food, and one of you say unto them, Depart in peace, be ye warmed and filled* (that is, express a good wish for them); *notwithstanding ye give them not those things which are needful for the body, what doth it profit?* So St. John (1 John iii., 17), *Whoso hath this world's good, and seeth his brother have need, and shutteth up his bowels of compassion from him, how dwelleth the love of God in him*; and St. Peter says (1 Pet. iv., 10), *As every man hath received the gift, even so let him minister the same, one to another, as good stewards of the manifold grace of God.*

613. The considerations by which these duties are urged upon Christians, are, that they are the means of obtaining God's favour. In some of the passages, it might appear as if the act of giving money were represented as directly leading to a reward in heaven: as when Christ (Luke xvi., 9) exhorts his disciples, *Make to yourselves friends of the unrighteous Mammon.* So St. Paul (2 Cor. ix., 6, 9), *He which soweth sparingly, shall reap also sparingly, and he which soweth bountifully, shall reap also bountifully.* (Heb. vi., 10), *God is not unrighteous to forget your work and labour of love, which ye have showed toward his name, in that ye have ministered to the saints and do minister.* But it is evident, by the general tendency of Scripture, that such acts are enjoined, as evidences of our love to men; and thus, of our love to God. St. Paul says, that when they are not the results of such affections they are valueless. (1 Cor. xiii., 3), *Though I bestow all my goods to feed the poor, and have not charity, it profiteth me nothing.*

614. The first Christians were a small portion of the civil community in which they lived; and had it for a main object of their lives, to exhibit their abhorrence of the prevailing vices of the society, out of which they had been called. Among these vices,

love of money and want of compassion for the poor had a prominent place. The Christians made their protest against these vices, by discarding all regard for money. Christ had said to the rich young man who asked what he should do to attain eternal life (Matth. xix., 21; Mark x., 21; Luke xviii., 22), *If thou wilt be perfect, go and sell all that thou hast, and give to the poor, and thou shalt have treasure in heaven.* And in pursuance of such injunctions the early Christians had their property common (Acts iv., 32), *The multitude of them that believed were of one heart and of one soul; neither said any of them that ought of the things which he possessed was his own; but they had all things common.*

615. Still this was not carried so far as to put an end to difference of wealth. Peter said to Ananias, respecting his property: (Acts v., 4), *Whiles it remained, was it not thine own? and after it was sold, was it not in thine own power?* For (Acts xi., 29) *The disciples (at Antioch), every man according to his ability (which was therefore various), determined to send relief unto the brethren which dwelt in Judæa.* So (1 Cor. xvi., 2), *Upon the first day of the week let every one of you lay by him in store, as God hath prospered him (for the collection for the saints);* which expression implies that each person possessed the produce of his own employments. So (1 Tim. vi., 17), *Charge them that are rich in this world,* implies that some Christians were rich.

616. It is evident that St. Paul did not approve of the poor living at the expense of the rich; for even though engaged in the labours of his ministry, he wrought for his own living, and repeatedly urges his example upon his converts (Acts xx., 34, 35). *Ye yourselves know that these hands have ministered unto my necessities, and to them that were with me. I have showed you all things, how that so labouring ye ought to support the weak, and to remember the words of the*



*Lord Jesus, how he said, It is more blessed to give than to receive. (So 1 Thems. ii., 9), Labouring night and day, because we would not be chargeable unto any of you, we preached unto you the gospel of God. And (2 Thems. iii., 8), Neither did we eat any man's bread for nought, but wrought with labour and travail night and day, that we might not be chargeable to any of you : not because we have not power, but to make ourselves an ensample unto you to follow us. For even when we were with you, this we commanded you, that if any would not work, neither should he eat. And thus (Eph. iv., 28), Let him that stole, steal no more, but rather let him labour, working with his hands, that he may have to give him that needeth. So (Tit. iii., 14), Let our people learn honest works (or trades) that they be not unfruitful. The Corinthians are repeatedly reminded that he had not been burdensome to them (2 Cor. xi., 9 ; xii., 13). And he adds (14), Behold, the third time I am ready to come unto you ; and I will not be burdensome to you : for the children ought not to lay up for the parents, but the parents for the children.*

617. As each person was thus exhorted to support himself, so was it urged as his duty to support the members of his family. (1 Tim., v. 8), *If any provide not for his own, and specially for those of his own house, he is worse than an infidel. (16), If any man or woman that believeth have widows, let them relieve them, and let not the church be charged, that it may relieve them that are widows indeed ; that is, that are destitute of natural supporters. And (4), If any widow have children or nephews, let them (the children) learn first to show piety at home, and to requite their parents ; for that is good and acceptable before God.*

618. Hospitality is often recommended in such passages. Hospitality to our friends is a practice that does not need a religious sanction. Hospitality

to strangers was urged upon the early Christians with some reference to their special circumstances, and those of the times. Thus (1 Pet. iv., 9), *Use hospitality one to another, without grudging.* (Heb. xiii., 2), *Be not forgetful to entertain strangers : for thereby some have entertained angels unawares.* (Rom. xii., 13), *Distributing to the necessity of the saints ; given to hospitality.*

619. With regard to riches, Content is recommended. 1 Tim. vi., 6, *Godliness with contentment is great gain ; for we brought nothing into this world, and it is certain that we can carry nothing out. And having food and raiment, let us be therewith content.* St. Paul urges this by his own example (Phil. iv., 11), *I have learned, in whatever state I am, therewith to be content.*

620. In connexion with such precepts, are the warnings to Christians not to set their hearts on riches. (Matth. iv., 19), *Lay not up for yourselves treasures upon earth, where moth and rust doth corrupt, and where thieves break through and steal....for where your treasure is, there will your heart be also.* And to this effect is the saying of Jesus after his answer to the rich young man (Matth. xix., 23 ; Mark x., 23 ; Luke xviii., 24), *How hardly shall they that have riches enter into the kingdom of God !* which is more distinctly explained in (Mark x., 24), *How hard is it for them that trust in riches to enter into the kingdom of God !* This is further illustrated by St. Paul (1 Tim., vi., 9), *They that will be rich, fall into a temptation and a snare, and into many foolish and hurtful lusts, which drown men in destruction and perdition. For the love of money is the root of all evil ; which while some have coveted after, they have erred from the faith, and pierced themselves through with many sorrows.* So (Luke xii., 15), *Take heed, and beware of covetousness ; for a man's life consisteth not in the abundance of the things which he possesseth.*

And covetousness is enumerated among the vices (Rom. i., 28 ; 1 Cor. v., 11 ; vi., 10). And (Eph. v., 5 ; Col. iii., 5), we are told, that *a covetous man is an idolator*, and that *covetousness is idolatry*; money being the idol.

Christians are to be *not greedy of filthy lucre* (*αἰσχροπρεπείας*) ; this is said of bishops (1 Tim. iii., 2 ; Tit. i., 7), of deacons (1 Tim. iii., 8), of elders (1 Pet. v., 2).

621. Christians are warned, not only against the love of money, but also against tenaciousness with regard to their rights. Thus (1 Cor. x., 24), *Let no man seek his own, but every man another's advantage.* (xiii., 5), *Charity seeketh not her own.* (vi., 7), *Now therefore there is utterly a fault among you, because ye go to law with one another. Why do ye not rather take wrong ? Why do ye not rather suffer yourselves to be defrauded ?*

622. When the desires and affections with regard to human possessions are thus controlled and subdued, it becomes easy to carry into effect the rules of justice relative to such matters. Accordingly St. Paul reproves the Corinthians for finding any difficulty in doing this. (1 Cor. vi., 5, 4), *I speak to your shame. Is it so, that there is not a wise man among you ? no, not one that shall be able to judge between his brethren ? If ye have judgments of things pertaining to this life, set them to judge who are least esteemed in the church.* The most eminent persons in the early church had higher offices than judging concerning property. The objects of Christian teaching, at that time, were not the reformation and pure administration of the laws, for which civil society itself provides ; but the reformation and purification of men's hearts. Hence, we do not find in the New Testament such earnest and frequent condemnation of injustice and false judgment as are common in the Old Testament. These latter refer

to a community, in which religion was the acknowledged basis of law ; and where, therefore, the just administration of law was a high religious duty.

623. Justice, in the wider sense of Equity, is enjoined. (Col. iv., 1), *Masters, give unto your servants that which is just and equal ; knowing that ye also have a Master in heaven.* (Phil. iv., 8), *Things which are just* are recommended along with things which are *true, honest, lovely, of good report.* And (Tit. i., 8), *A bishop must be just, as well as a lover of hospitality, a lover of good men.*

624. Perhaps to some readers, justice in matters of property may seem to be made light of, in the parable of the unjust steward, whom *the lord* (that is, his lord) *commended* (Luke xvi., 8), and of the unjust judge (Luke xviii., 6) of whom Christ said, *Hear what the unjust judge saith.* But it is to be recollected that a parable is a mode of illustrating some one truth ; and is not to have its subordinate parts drawn into inferences. The parable of the unjust steward is put forward to illustrate the duty of foresight ; the prudence of godliness. The steward's lord commended him as having acted with foresight and prudence, which evidently he had, though not with honesty. The parable is intended, not to illustrate the relative value of prudence and honesty, but of prudence and that imprudence which disregards a future life. The unjust steward is put forward as an example of the *children of this world*, who are opposed to the *children of light.* They are the wiser of the two in their generation ; but if we look beyond their generation, their wisdom is folly. In the same manner, the parable of the unjust judge is put forth to illustrate the efficacy of prayer, and not the character to which prayer is addressed, as it is stated (ver. 1), *He spake a parable to them to this end, that men ought always to pray, and not to faint.*

## CHAPTER VI.

## CHRISTIAN PRECEPTS CONCERNING TRUTH.

625. THE same desires and affections which tend to the appropriation of the property of others, often lead to fraud and falsehood; and thus, the warnings to Christians already quoted, bear upon the subjects now under consideration. But there are many precepts more especially directed to these subjects; as (1 Thess. iv., 6), *This is the will of God: that no man go beyond and defraud his brother in any matter: because that the Lord is the avenger of all such, as we also have forewarned you and testified.* And to the Corinthians he says reproachfully (1 Cor. vi., 8), *Ye do wrong, and defraud, and that your brethren. Know ye not that the unrighteous shall not inherit the Kingdom of God?* To the Ephesians (Eph. iv., 25), *Putting away lying, speak every man truth with his neighbour, for we are members one of another.* And the Colossians (Col. iii., 9), *Lie not one to another, seeing ye have put off the old man with his deeds; and have put on the new man, which is renewed in knowledge after the image of him that created him.*

626. Such attributes as *true*; *faithful* as a promiser (Heb. x., 23; xi., 11); *faithful* to him that appointed him (Heb. iii., 2); *sincere*; are constantly used as praise. It is mentioned among the signs of the perilous times that shall come (2 Tim. iii., 2), that men shall be *truce-breakers, false accusers* (ῥευστοὶ, ψευδοί). But such terms as *faithful, sincere*, and the like, are more commonly used with reference to the relation between God and man. The constant exhortations of Christian teachers to the love of our neighbour, and their warnings against those desires which lead to fraud, lying, breach of

promise, and the like ; make it almost unnecessary for them to condemn such offences expressly. The words which are translated by *honest* in our version, are, for the most part, such as imply qualities respected and admired by men, like *honestum* in Latin ; as καλὸν in (Rom. xii., 17), *Provide things honest in the sight of all men.* (2 Cor. viii., 21), *Providing for honest things, not only in the sight of the Lord, but also in the sight of man.* (xiii., 7), *I pray to God that ye do no evil....but that ye should do that which is honest.* (1 Pet. ii., 11), *I beseech you, abstain from lusts....having your conversation honest among the Gentiles ; that, whereas they speak against you as evil-doers, they may by your good works, which they shall behold, glorify God.* So ἀληθῆ (Phil. iv., 8), *Finally, brethren, whatsoever things are true, whatsoever things are honest, whatsoever things are just, whatsoever things are pure, whatsoever things are lovely, whatsoever things are of good report ; if there be any virtue, and if there be any praise, think on these things.* (1 Tim. ii., 2), *Pray for kings, and for all that are in authority : that we may lead a quiet and peaceable life in all godliness and honesty* (εὐσέβειας).

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## CHAPTER VII.

### CHRISTIAN PRECEPTS CONCERNING PURITY.

627. THE Christian is enjoined to be free from the dominion of sensual, as well as covetous, desires ; pure, as well as honest. These epithets are joined (Phil. iv., 8), *Whatsoever things are honest, whatsoever things are pure* (καὶ ἀγαθὰ). The same word is used (1 Tim. v., 22), *Keep thyself pure.* (1 John iii.,

3), *Every man that hath this hope in him purifieth himself, even as he is pure.*

The same word is used to express conjugal chastity (Tit. ii., 5 ; 1 Pet. iii., 1). But much more than mere observance of legal obligation is required, in this as in other cases. (Matth. v., 27), *Ye have heard that it was said by them of old time, Thou shalt not commit adultery: but I say unto you, That whosoever looketh on a woman to lust after her, hath committed adultery with her already in his heart. And if thy right eye offend thee, pluck it out, and cast it from thee; for it is profitable for thee that one of thy members should perish, and not that thy whole body should be cast into hell.* So by St. Paul lasciviousness (*ἀσέλγεια*) is condemned, as well as the acts to which it leads, Gal. v., 19). *The works of the flesh are manifest, which are these: Adultery, fornication, uncleanness, lasciviousness ... of the which I tell you before, as I have told you in time past, that they which do such things shall not inherit the kingdom of God.* So (1 Cor. vi., 9, 10). Also (Eph. v., 3), *Fornication and all uncleanness ... let it not be once named among you; as becometh saints; neither filthiness (*αισχρότης*), nor foolish talking and jesting, which are not convenient.* (Col. iii., 5), *Mortify your members which are upon the earth; fornication, uncleanness, inordinate affection (*πάθος*), evil concupiscence (*ἐπιθυμίαν κακὴν*) ... for which things' sake the wrath of God cometh on the children of disobedience.*

Other expressions are also used; as (1 Tim. v., 6), *She that liveth in pleasure is dead while she liveth (*ἐπαρῶσα*).* This word is also used by St. James in denunciation of woe against luxurious and tyrannical men. (James v., 5), *Ye have lived in pleasure in the earth, and been wanton (*ἐρρυφῆσθε καὶ ἐπαρῶσθε*).*

628. Christian teaching urges an especial argument against fornication (1 Cor. vi., 15-20), *What! know ye not that your body is the temple of the Holy*

*Ghost which is in you, which ye have of God ; and ye are not your own ? for ye are bought with a price : therefore glorify God in your body, and in your spirit, which are God's.* The same argument is used (1 Cor. iii., 16), *Know ye not that ye are the temple of God ? If any man defile the temple of God, him shall God destroy.*

629. Other sins of lust are spoken of as the extremes of human depravity, when God gives men up unto vile affections (Rom. i., 20, and 1 Cor. vi., 9).

630. The conjugal union is commended, and its duties sanctioned. (Heb. xiii., 4), *Marriage is honourable in all, and the bed undefiled.* (1 Cor. vii., 3), *Let the husband render unto the wife due benevolence ; and likewise also the wife unto the husband. The wife hath not power of her own body, but the husband : and likewise also the husband hath not power of his own body, but the wife.* (1 Thess. iv., 3), *This is the will of God, even your sanctification, that ye should abstain from fornication : that every one of you should know how to possess his own vessel in sanctification and honour ; not in the lust of concupiscence, even as the Gentiles which know not God.* (1 Tim. v., 14), *I will that the younger women marry, bear children, guide the house.*

631. There are passages in which St. Paul intimates it to be his private opinion, that, under the circumstances of the time, it was better then for Christians to abstain from marriage : but he does not deliver this as the Divine command. Thus (1 Cor. vii., 25), *Concerning virgins, I have no commandment of the Lord ; yet I give my judgment as one that hath obtained mercy of the Lord to be faithful. I suppose therefore that this is good for the present distress ; I say, that it is good for a man so to be ; namely, to be a virgin or unmarried.* In verses 32, 33, he explains further the reasons of this advice, which belong especially to the condition of his disciples as



Christians, occupied by religious duties. *I would have you without carefulness. He that is unmarried careth for the things that belong to the Lord, how he may please the Lord. But he that is married careth for the things that are of the world, how he may please his wife.* He adds (29), *But and if thou marry, thou hast not sinned ; and if a virgin marry, she hath not sinned.* He had in the previous part of the chapter (6-9) given the same advice to unmarried and widows, with the same limitation : *I speak this by permission, and not of commandment ; and he repeats it again in like manner in the end of the chapter.*

632. The conjugal union is further invested with a religious significance. (1 Cor. xi., 11), *Neither is the man without the woman, neither the woman without the man, in the Lord. For as the woman is of the man, even so is the man also by the woman.* (Eph. v., 23), *The husband is the head of the wife, even as Christ is the head of the church. . . Husbands, love your wives, even as Christ also loved the Church, and gave himself for it. . . So ought men to love their wives as their own bodies. He that loveth his wife loveth himself. For no man ever yet hated his own flesh : but nourisheth and cherisheth it, even as the Lord the Church. For we are members of his body, of his flesh, and of his bones. For this cause shall a man leave his father and mother, and shall be joined unto his wife, and they two shall be one flesh.* This passage (Gen. ii., 24) had already been quoted by Christ (Matth. xix., 4 ; Mark x., 6), *He answered and said unto them, Have ye not read that he which made them at the beginning made them male and female ; and said, For this cause shall a man leave father and mother, and shall cleave to his wife ; and they twain shall be one flesh. Wherefore they are no more twain, but one flesh. What therefore God hath joined together, let not man put asunder.*

633. The precepts of the New Testament which speak of cases in which marriage may be annulled, have reference to the law of the Old Testament. Moses had commanded (Deut. xxiv., 1), That if a man marry, and *his wife find no favour in his eyes*, he should write her a bill of divorcement, and send her away. After this, she might be married to another man, but never to her former husband. The practices which, in virtue of this law, prevailed among the Jews at the time of Christ's coming, led to a question which was proposed to him (Matth. xix., 3 ; Mark x., 2), *The Pharisees came unto him, tempting him, and saying unto him, Is it lawful for a man to put away his wife for every cause ?* He answered as in the passage just quoted, referring to the first institution of marriage by God, and ending, *What therefore God hath joined together let not man put asunder. They say unto him, Why did Moses then command to give her a writing of divorcement, and to put her away ? He saith unto them ; Moses, because of the hardness of your hearts, suffered you to put away your wives ; but from the beginning it was not so. And I say unto you, Whosoever shall put away his wife, except it be for fornication, and shall marry another, committeeth adultery, and whoso marrieth her which is put away doth commit adultery.*

634. The part of this passage in which it is said that Moses gave the Jews his command *because of the hardness of their hearts*, appears to imply, like the rest of Christ's teaching, that the Christian was to aim at a higher degree of moral purity than was placed before the Jew. The Jew was commanded or permitted to put away his wife *if she found no favour in his eyes* : the Christian was enjoined to aim at making the marriage union as complete as it was *in the beginning*, at its first institution. The latter part of the passage appears, to some commentators, to refer to a case in which the putting away the wife

and the marrying neither are part of the same design; such a design is declared to be adulterous. They urge, that if the passage be understood without this connexion, the Law of Moses permitted or commanded adultery. They also urge, that a settled unfitness in the minds of two persons may be a greater obstacle to the ends of marriage, than the condemnation, mistrust, and grief occasioned by a bodily sin. But to this latter argument, it may be replied, that bodily sin may properly be made the ground of a judicial proceeding, because it is a thing capable of proof, and for the most part operating inevitably upon all persons' minds in the same manner, in virtue of the universal affections and habits of mankind: but that the permanent unfitness of two minds to the conjugal union is not capable of proof, since the effects of transient passion, caprice, or design, are not distinguishable from permanent unfitness of mind; and further, that it does not appear that, in any case, such unfitness may not be overcome, by cultivating those affections which religion and morality enjoin us to cultivate; kindness, gentleness, meekness, patience, cheerfulness. It may also be remarked, that the cultivation of such affections, in such a case, will be prosecuted more resolutely and successfully, if the parties believe that the marriage cannot be dissolved, merely because this task of self-cultivation is imperfectly executed; and if they further believe that such an ordinance respecting marriage is sanctioned by the Divine command.

685. It was a question among the early Christians, whether religious disbeliefs in Christ, on the one side, annulled the marriage. St. Paul gives his opinion, in the Divine Command, (1 Cor. vii., 12), 'To the rest speak I, not the Lord: If any brother hath a wife that believeth not, and she be pleased to dwell with him, let him not put her away. And the

*woman which hath an husband that believeth not, and if he be pleased to dwell with her, let her not leave him. For the unbelieving husband is sanctified by the wife, and the unbelieving wife is sanctified by the husband : else were your children unclean, but now are they holy. For what knowest thou, O wife, whether thou shalt save thy husband ? Or how knowest thou, O man, whether thou shalt save thy wife ?* It is to be observed, that the Greek word by which the consent is expressed (*συνενδοκεί*) implies mutual consent, according to the opinion of some.

It would appear, however, that if the wife or the husband were deserted on this account, St. Paul held the marriage bond to be broken. Verse 15, *But if the unbelieving depart, let him depart ; a brother or a sister is not under bondage in such cases ; but God hath called us to peace.*

636. Christian teaching exhorts us to moderate, and rightly direct, other bodily desires, as well as those which belong to the conjugal state. Christians are enjoined to be sober and temperate. Thus (1 Tim. iii., 2, and Tit. i., 7), *A bishop must be blameless as the steward of God ; not self-willed, not soon angry, not given to wine, no striker, not given to filthy lucre, but a lover of hospitality, a lover of good men, sober, temperate.* So (Tit. ii., 2), *Teach that the aged men be sober, grave, temperate.... The aged women likewise that they be in behaviour as becometh holiness,.. not given to much wine, teachers of good things ; that they teach the young women to be sober.* (1 Tim. iii., 8), *Likewise must the deacons be grave, not double-tongued, not given to much wine, not greedy of filthy lucre.* And (ver. 11), *Even so must their wives be grave, not slanderers, sober, faithful in all things.* (Eph. v., 18), *Be not drunk with wine, wherein is excess (ἀσώρια, intemperance), but be filled with the Spirit.*

637. But the exhortations to Sobriety imply ge-

morally Sobriety of Mind, as well as bodily temperance. We see that *grave* is joined with *sober*. So (Eph. v., 4), this Apostle forbids foolish talking and jesting (*μωρολογία καὶ κεινότητα*) ; though the latter disposition, in Aristotle's Ethics (there usually translated *facetiousness*, *pleasantry*, *wit*), is enumerated among the virtues, and described as intermediate between the opposite vices of *σωφροσύνη* and *ὑπόκρισις*, buffoonery and churlishness.

638. The Christian condition affords special reasons for this sobriety of mind. Thus (1 Thess. v., 6), *Ye are all the children of light, and the children of the day ; we are not of the night nor of darkness. Therefore let us not sleep as do others, but let us watch and be sober.* (1 Pet. i., 13), *Stir up the reins of your mind, and be sober.* (iv., 7), *The end of all things is at hand ; be ye therefore sober, and watch unto prayer.* (v., 8), *Be sober, be vigilant ; because your adversary the devil, as a roaring lion, walketh about, seeking whom he may devour.* (Tit. ii., 11, 12), *The grace of God that bringeth salvation hath appeared to all men, teaching us that, denying ungodliness and worldly lusts, we should live soberly, righteously, and godly, in this present world.*

639. Moderation in dress and ornaments is also enjoined. (1 Tim. ii., 9), *I will that women adorn themselves in modest apparel, with shamefacedness and sobriety ; not with broidered hair, or gold, or pearls, or costly array.* (1 Pet. iii., 3), *Ye wives ; your adorning let it not be that outward adorning of plaiting the hair, and of wearing of gold, or of putting on of apparel.*

640. In addition to this, are enjoined regard to domestic duties, and moderation in the enjoyment of company (Tit. ii., 3), *Teach the young women to be sober, to love their husbands, to love their children, to be discreet, chaste, keepers of home* (*οἰκονομοί*).

641. Among the duties thus enjoined upon wo-

men, is that of being obedient to their own husbands (Tit. ii., 3). So (1 Pet. iii., 1), *Likewise ye wives, be in subjection to your own husbands.* And St. Paul says (Eph. v., 22), *Wives, submit yourselves unto your own husbands, as unto the Lord. For the husband is the head of the wife, even as Christ is the head of the Church.* In (1 Cor. xi., 7), St. Paul says, *The man is the image and glory of God, but the woman is the glory of the man. For the man is not of the woman, but the woman of the man.*

This duty, however, more properly belongs to the next chapter.

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## CHAPTER VIII.

### CHRISTIAN PRECEPTS CONCERNING OBEDIENCE AND COMMAND.

642. THE duty of obedience of children towards their parents, which is recognized by the laws and customs of all countries, is sanctioned by Christian teaching. (Matth. xv., 3), *Christ said unto them, Why do ye transgress the commandment of God by your tradition? For God commanded, saying, honour thy father and mother, and, He that curseth father or mother, let him die the death: but ye say, that if a man refuse to his parents what they require on pretence that he has vowed it to sacred uses, and honour not his father or mother, he shall be free. Thus have ye made the commandment of God of none effect by your tradition.* And St. Paul, in the same manner, refers to this part of the law of Moses (Eph. vi., 1), *Children, obey your parents in the Lord, for this is right. Honour thy father and mother; which is the first commandment with promise: that it may be well*

*with thee, and thou mayest live long on the earth. So (Col. iii., 20), Children, obey your parents in all things, for this is well-pleasing unto the Lord. And disobedience is mentioned (2 Tim. iii., 2) among the signs of the perilous times that shall come. Men shall be lovers of their own selves, covetous, boasters, proud, blasphemers, disobedient to parents, unthankful, unholy, without natural affection.*

643. Natural affection, thus sanctioned by religion, is termed *piety* by the Christian teachers ; as it was by the Roman and Greek writers. This piety must show itself in acts. (1 Tim. v., 4), *If any widow have children, or nephews, let them learn first to show piety at home, and to requite their parents ; for that is good and acceptable before God.*

644. Along with the duty of obedience in children, is inculcated the duty of good and gentle government in parents. (Eph. vi., 4), *Ye fathers, provoke not your children to wrath, but bring them up in the nurture and admonition of the Lord. (Col. iii., 21), Fathers, provoke not your children to anger, lest they be discouraged.*

645. There are other duties of the heads of families : as provision for bodily needs. (1 Tim. v., 8), *If any provide not for his own, and especially for those of his own house, he is worse than an infidel. And (though said in the way of illustration) (2 Cor. xii., 14), The children ought not to lay up for the parents, but the parents for the children. Also government (1 Tim. iii., 4), A bishop must be one that ruleth well his own house, having his children in subjection with all gravity. A family contains servants, as well as children ; and Christian teaching enjoins, between them and the masters, the duties of obedience on one side, and good government on the other. (Eph. vi., 5), *Servants, be obedient to them that are your masters according to the flesh, with fear and trembling, in singleness of your heart, as unto Christ : not with**

*eye-service as men-pleasers, but as the servants of Christ, doing the will of God from the heart : with good will doing service, as to the Lord, and not to men . . . And, ye masters, do the same things unto them, forbearing threatening : knowing that your Master also is in heaven, neither is there respect of persons with him.* Nearly the same precepts and reasons are given (Col. iii., 22 ; iv., 1). So (Tit. ii., 9), *Exhort servants to be obedient unto their own masters, and to please them well in all things, not answering again ; nor purloining, but showing all good fidelity, that they may adorn the doctrine of God our Saviour in all things.* Also (1 Pet. ii., 18), *Servants, be subject to your masters with all fear ; not only to the good and gentle, but also to the froward. For this is thankworthy, if a man for conscience towards God endure grief, suffering wrongfully. For what glory is it, if, when ye be buffeted for your faults, ye shall take it patiently ? but if, when ye do well and suffer for it, ye take it patiently, this is acceptable with God.*

In this passage in St. Peter, the word translated servant is οἰκετός, domestic ; in the passage from St. Paul, it is δούλος, slave.

646. Some of the precepts respecting servants have an especial reference to their being bound to their masters as slaves ; and also to the change which, it appears to have been expected by some, the acceptance of Christianity by masters and servants might produce in their domestic relation. (1 Tim. vi., 1), *Let as many servants as are under the yoke (slaves), count their own masters worthy of all honour, that the name of God and his doctrine be not blasphemed. And they that have believing masters, let them not despise them, because they are brethren (Christians), but rather do them service, because they are faithful and beloved, partakers of the benefit (of the Gospel).* And (1 Cor. vii., 21), *Art thou called*



*being a servant (a slave) ? care not for it : but if thou mayest be made free, use the opportunity, rather than omit to do so. For he that is called in the Lord, being a bondman, is the Lord's freeman : likewise he that is called, being free, is Christ's bondman. Ye are bought with a price (by Christ) ; therefore, be not the servants of men, so that this shall interfere with your service of Christ.*

647. As Christians were thus enjoined to observe, respect, and heartily conform to the relations in families which were at that time established by law or usage, so were they enjoined to do the same with respect to the relations established in the State. Thus, Christ paid tribute to the State (Matth. xvii., 24-27), saying to Peter, *Lest we should offend them, go thou...thou shalt find a piece of money, that take, and give unto them for me and thee.* And (xxii., 21), he enjoined others to pay tribute : *Render unto Cæsar the things that are Cæsar's.* So St. Paul (Rom. xiii. 7), *Render to all their dues : tribute to whom tribute is due ; custom to whom custom ; fear to whom fear ; honour to whom honour.* And this is joined with general injunctions of obedience to magistrates. (xiii., 1-5), *Let every soul be subject to the higher powers. For there is no power but of God : the powers that be are ordained of God. Whosoever therefore resisteth the power, resisteth the ordinance of God ; and they that resist shall receive to themselves damnation. For rulers are not a terror to good works, but to the evil. Will thou then not be afraid of the power ? do that which is good, and thou shalt have praise of the same : for he is the minister of God to thee for good. But if thou do that which is evil, be afraid ; for he beareth not the sword in vain : for he is the minister of God, a revenger to execute wrath upon him that doeth evil. Wherefore ye must needs be subject, not only for wrath, but also for conscience sake. And (Tit. iii., 1),*

*Put them in mind to be subject to governments (ἀρχαί) and powers, to obey magistrates. Also St. Peter (1 Peter ii., 13), Submit yourselves to every ordinance of man, for the Lord's sake : whether it be to the king, as supreme ; or unto governors, as unto them that are sent by him for the punishment of evil-doers, and for the praise of them that do well. For so is the will of God, that with well-doing ye may put to silence the ignorance of foolish men, who speak of you as bad subjects. As free (in spirit), and not using your liberty for a cloke of wickedness (or sedition) (κακίας) but as the servants of God. Honour all men. Love the Brotherhood. Fear God. Honour the King.*

648. The early Christians are here enjoined submission to the magistrates, as a course not only prudent, but also right and religious ; *not only for wrath* (by reason of the menace of punishment), *but also for conscience sake : for the Lord's sake.* These powers, and the higher powers especially, are said to be *of God* ; to be *ordained of God* ; to be the *ministers of God* : to resist them is to resist the ordinance of God, and to incur danger of damnation.

The powers to which this applied, as appears by the condition of the early Christians, and by the facts, are the powers of the established government ; they are called by St. Paul *the powers that be* ; and by St. Peter, *every ordinance of man*. The term *King* appears to be also used, only because it was the name of the supreme magistrate at that time in that country.

649. And thus, in general, it is a Duty to obey the government established in the land where the Christian resides. The passages just quoted do not restrict this Duty to any form of government ; and from the history of the times, we may infer that it is not confined to cases in which the ancient constitution, or the ancient line of sovereigns, subsists. For the constitution of the Roman State had recently been

altered by violence, from a republican to an imperial form ; and the ancient line of kings no longer ruled in Judæa.

Such passages, therefore, cannot afford any reason for imagining a religious Duty to oppose or disturb the existing government, in order to restore an ancient Constitution or an ancient Dynasty.

650. On the other hand, these passages do not at all show that, in any State, it may not be the duty of *the powers that be* to alter the laws, to appoint new magistrates, new magistracies, and the like ; and allowable in extreme cases, in cases of necessity (424), to alter the Constitution of the country, or to depose the Sovereign. Whether this is the case, must depend upon considerations belonging to Polity ; in which religious as well as civil Polity must be taken into the account.

651. In a constitutional form of government, in which the whole or a large part of the citizens possess more or less political power, the Constitution, as much as the person or family of the Sovereign, may be considered as *the ordinance of man*, to which all are commanded to commit themselves. And every citizen, who thus possesses by Law a share of political power, is one of *the powers that be*. Every Christian, in such a situation, may and ought to exert his constitutional Rights, so far as they extend, both to preserve the State and the Laws from all needless and hasty innovation, and to affect such improvements in both as time and circumstances require ; using the light of Religion as well as of Morality and Polity, to determine what really is improvement (see 334).

652. It is the office of the State to make Laws regulating the details of its Institutions, and the Duty of the Citizen to obey them (330). In like manner, in religious matters, it is the office of the Church to make laws respecting the detail of its Institutions ; and it is the Duty of the Christian to conform to such

**Laws.** Laws, Rules, and Customs on such subjects, are *Christian Ordinances*; and will be treated of hereafter.

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## CHAPTER IX.

### THE CHRISTIAN RULE OF CONSCIENCE.

653. WE have already spoken of Conscience; and have distinguished it into Conscience as Law, and Conscience as Witness (361). We have further stated, that our Conscience as Law, is that view at which we have arrived, of the Supreme Law of our being; and is thus a stage in our Moral and Intellectual Progress (336). We have added, that we can never rightly assume that we have reached an ultimate stage in this Progress; we must always continue to labour further to enlighten and to instruct our Conscience (366). We have further added, in anticipation of the present part of our work, that in attempting constantly to carry on this process towards its completion, we find the need of light and power which we can only hope to obtain from Religion (367).

Religion presents to us the Supreme Law of our being as the Will of God; and hence, if we now inquire what is the Supreme Rule of Conscience, the answer can only be, that it is the Will of God. But the Will of God becomes the Rule of our Conscience, only by becoming known to us; and it is an important question, where we are to look for that knowledge of the Will of God, which is to be the Rule of our Conscience. Religion is to aid us to instruct and enlighten our Conscience; and we are led to inquire

is what forms this instruction, and this light, are to be obtained.

654. The answer, in a general shape, can be no other than this : that the Will of God, so far as it is made known to man, in whatever manner, is the Rule of man's Conscience. Conscience, as Law, is Morality, the Law of our being. But we have already seen, that we are led to consider Morality under two main aspects ; the Morality of Reason, and Christian Morality : both these give us a knowledge of the Will of God ; and these are the two main portions of the Supreme Rule of Conscience.

655. Christian Morality is the Will of God as revealed to us by the coming of Christ ; of which Revelation, the authoritative account is contained in the Scriptures. We here include the Scriptures of the Old, as well as the New Testament, for both are parts of the same revelation. The Christian Morality, thus revealed, includes and comprises rational Morality ; carries its claims much deeper into our Spiritual being ; and invests it with far more certain and more powerful sanctions. Hence it may perhaps be thought by some, that Christian Morality supercedes the Morality of Reason ; and that the Scriptures alone may be declared to be the Supreme Rule of the Christian's Conscience.

But a little consideration will show us that we cannot look upon the Scriptures of the Old and New Testament as the Supreme Rule of Conscience ; that is, as the sole and complete Rule of Human Action.

656. This will appear from the Scriptures themselves, as well as from the reason of the case. The Scriptures themselves take for granted the light of reason, and the natural knowledge of moral rules to which men are thus led. Thus St. Paul says (Rom. ii., 14), *When the Gentiles, which have not the law (of the Scriptures), do by nature the things contained in the law, these, having not the law, are a law*

unto themselves. They show the work of the law written in their hearts ; their conscience also bearing witness, and their thoughts the meanwhile accusing or else excusing one another. The precepts of Scripture cannot be a rule to those who have not received the Scripture : and such persons have for their proper guide the suggestions of reason, *the law written in their hearts*. The writings of heathen moralists, and the whole history of heathen life, show that the heathen were aware of a moral rule, and of the guilt incurred by its violation. The conception of sin implies the assumption of a law : as St. Paul says (Rom. iv., 15), *Where no law is, there is no transgression*. As St. John also says (1 John iii., 4), *Sin is the transgression of the law*. Since then we ascribe sin to heathens, we must suppose them to have a moral law ; and this law cannot be the precepts of Scripture, which have not found the way to them. The precepts of Scripture are not the sole rule of action for mankind.

657. But further ; even Christians are referred to the natural sense of right on many occasions. Thus Christ says (Luke xii., 57), *Why even of yourselves judge ye not what is right ?* St. Paul says (1 Cor. xi., 13, 14), *Judge in yourselves . . . doth not nature itself teach you !* and again (1 Cor. x., 15), *I speak as to wise men ; judge ye what I say*. And the same application of the light of the reason, to judge of right and wrong, is implied, whenever Christ and his Apostles express indignation at offences, not expressly forbidden in Scripture, but only necessarily condemned by inference from commands which are given. But it is to be remarked that, in Scripture, appeals to the natural conscience of man are very much mixed up with references to the revealed Divine commands. This results from the nature of the case ; since the Divine commands contain a distinct promulgation of the main points of the natural moral

law ; and the law thus promulgated was appealed to, both as agreeable to reason, and enjoined by the will of God.

The religious teacher, instead of looking upon the moral law as the dictates of man's Reason, considers it as the law of God, who gave to man his Reason. But this does not prevent his recognizing the law written on the heart of man, as well as the law inscribed on the tables of the Mosaic covenant.

658. There is another reason why we should not look upon the precepts of Scripture as the sole and complete rule of human action. Namely this: it was not the main object of the Scriptures to promulgate laws of human action, but to publish the mode by which men were to find favour with God. St. Paul describes this very distinctly when he speaks to Timothy (2 Tim. iii., 15) of the *Scriptures, which are able to make thee wise to salvation*. For this purpose, Scripture has to teach us Doctrines, such as have already been spoken of, which the light of human reason could not discover. And the rules of human duty are there set forth, rather in proportion as their connexion with those Doctrines requires, than in such manner as to produce a complete body of moral rules, requiring nothing besides itself for the guidance of human life.

659. Further: if we consider the form, character, and spirit of the books of Scripture, it will appear that we cannot expect to find in them a complete and systematic body of moral rules. For the precepts which the Scriptures contain are of various kinds ; some refer to moral conduct, others to ceremonies : some apply to all men, others to particular persons ; some are temporary, others perpetual commands. Some precepts are delivered *by opinion*, or *by permission*. 1 Cor. vii., 8, *I speak this by permission* (*κατὰ εὐγγύωμην*) : and verse 40, *After my judgment* (*κατὰ τὴν ἐμὴν γνῶμην*), as counsels directed to par-

ticular times and conditions ; other precepts are delivered *by commandment* (1 Cor. vii., 6) (*κατ' ἐντολὴν*), as to be observed by all at all times. We must distinguish these kinds of precepts from each other ; the particular from the general, the temporary from the perpetual ; and this must be done by the light of reason.

Scripture itself does not always separate these kinds of precepts. Thus (Levit. xix., 18), we have the general precept, *Thou shalt love thy neighbour as thyself* ; and in the next verse we have, *Thou shalt not sow thy field with mingled seed, neither shall a garment mingled of linen and woollen come upon thee*. No one will doubt that the former precept is a command for all men at all times, the latter a ceremonial command confined to the Jews. We allow the common reason of mankind to draw this distinction between the obligation imposed by these two successive verses ; and we thus recognize the authority of human reason conjointly with that of Scripture, in defining the rules of human action.

660. Thus the precepts of Scripture are not the complete and sole Rule of human action *for us*, because they are evidently not intended by God to be so. The Will of God, in whatever manner made known to us, whether by Scripture, or by Reason, or by the joint light of the two, is our Rule of action. That by taking advantage of both, we may obtain a body of rules of action in harmony with the will of God as revealed in Scripture, we have endeavoured to show, in the Chapters on Christian Morality.

661. This body of morality is enjoined upon us as a part of man's salvation. James iv., 12, *There is one lawgiver, who is able to save and to destroy*. And any part of the legislation which thus expresses the will of God, cannot be superseded by any other obligation. Thus St. Peter and the Apostles declared (Acts v., 29), *We ought to obey God rather*



than men. And (iv., 19), *Whether it be right in the sight of God to hearken unto you more than unto God, judge ye.*

662. Having thus taken a survey of the Christian Precepts which relate to special classes of Duties, we have still to speak of those religious Principles of action, of which all Duties are manifestations and developments (565). Our Progress towards the condition in which such Principles become operative in us, is our Religious Progress; as our progress towards the condition in which Moral Principles become operative in us, is our Moral Progress. It is a duty to aim at Religious Progress, as it is a Duty to aim at Moral Progress; for our Moral Progress is incomplete, except it go onwards so as to be also Religious Progress. A Belief in God is a part of our Moral and Intellectual Progress; and this Belief, once arrived at, gives a new aspect to our views of Duty and its foundations. We cannot stop short of this belief, and of its influence, without making the progress of thought with regard to the foundations of Duty come to a termination; and to acquiesce in such a termination, is contrary to the nature of the moral and intellectual progress at which we are bound to aim.

Our endeavours to promote this religious Progress in ourselves, or in others, may be termed *Religious Culture*. Such Religious Culture is one of our Duties; and as was said before of the Duty of Moral Culture (305), this Duty is of so fundamental and comprehensive a character as to include all other Duties. We must now attend to some of the parts of this Duty of Religious Culture of ourselves.

## CHAPTER X.

## NATURAL PIETY.

663. THE belief in God, which most men possess, as a part of their mental habits, from the first dawn of thought ; which is unfolded into a distinct form in the course of their moral and intellectual culture ; and which is supported and confirmed by many reasonings, drawn both from the material and the moral world, brings with it corresponding Duties of the affections. We have already said (283) that man has, among his natural affections, a deference for something better, wiser, more stable, more permanent than himself. This feeling finds its employment in our regards towards human Authority, especially when this Authority is manifestly combined with Goodness and Justice ; and makes Reverence and Obedience to such Authority to be Duties. But in order that our view of Duty may be consistent with itself, these Affections of Reverence and Justice must be conceived as equally due, wherever these conditions of Authority, combined with Goodness and Justice, are conceived to exist ; and as due in a greater and greater degree, in proportion as the Authority, the Goodness, and the Justice, are more complete. In our Idea of God, we include Supreme Authority over his creatures, along with perfect Goodness and Justice. To him, therefore, in an eminent and especial manner, Reverence and Obedience are due.

664. This Duty has been acknowledged by the universal feelings of mankind in all nations and in all ages. Men have always and everywhere declared their belief in God, and have looked upon him as the proper object of the most profound Reverence. In rude nations, whose moral and intellectual

nature was very imperfectly developed, the idea of God has been entertained in a coarse and confused manner, under the forms of Polytheism, Hero-Worship, and the like. In such cases, the Character ascribed to Deity has been Power, rather than Authority, Justice, and Goodness; and the Affection has corresponded to the conception of the Character, and has been Fear, rather than Reverence. But when the moral attributes of God are more steadily apprehended, the Fear receives a mixture of Love, and becomes Reverence. And in proportion as the Goodness of God becomes more and more fixed in man's belief, Love predominates over Fear in the feelings which they have respecting him.

665. In like manner, Obedience to God has everywhere been recognized as a Duty. That he has made us what we are, and given us the faculties which we have, makes it right that we should obey him; for the Supreme Rule of our being, according to which right things are right, is what He has made it by his Will. The Rule of human action has been, in all stages of man's progress, commonly apprehended as identical with the Will of God. In proportion as the Rule of human action has been more completely conceived, and reduced to the Moral Principles of which we have spoken, Benevolence, Justice, Truth, Purity, and Order, those Principles have been conceived as attributes of God. And this identity, between the Will of God and the Supreme Rule of Human Action, being assumed, any special indications of the Will of God have been accepted, as having a supreme claim to our Obedience.

666. This is universally recognized with regard to those indications of the Will of God, which we discern in the constitution and circumstances of man. That man was *intended* by God, or by Pro-

vidence, to follow this or that course, if the intention be allowed, is universally accepted as proving it *right* that he should follow such course. There are many indications of this kind, which all thoughtful men agree in acknowledging. We cannot doubt whether it was intended by the Creator that certain kinds of birds should do what they invariably do ;— build nests, pair, feed their young, live in flocks, migrate. And when we look at man, as the naturalist looks at him, and find that property, marriage, civil society, trade, are habits of men quite as universal as the habits of birds just mentioned, we cannot doubt that the institutions are a part of the intention of Providence in the Creation of man, just as the habits of birds are a part of the intention of Providence in the creation of birds. And this intention of Providence makes it *right* that man should conform himself to these institutions, and to the Rules which are necessary for the existence of the Institutions of each community. We do not say that it is *right* for mere *animals* to conform themselves to these intentions of Providence ; because for animals there is no rightness. They act by Instinct, which feels, not by Reason, which sees, a Rule. They are driven forward by implanted impulses, men by conscious intention. But man, himself capable and conscious of intention, can apprehend the existence of intention in his Maker, and cannot help apprehending it as a paramount Rule for his own intention.

667. The acknowledgment of the intention of the Creator as the proper Rule of man's actions, has sometimes been expressed by saying that man ought to live according to Nature ; and that Virtue and Duty are according to Nature, Vice and moral Transgression contrary to Nature. For man's nature is a Constitution, in which Reason and Desire are elements ; but of these elements, it was plainly

intended that Reason should control Desire, not that Desire should overmaster Reason. And in a like form might be presented some of the reasonings which we have employed. In order to establish the Duties of the Affections, for instance, we might have said, that it is plainly according to nature that men should be drawn together by Affection, and yet should possess distinct Rights ;—that therefore those benevolent Affections are Duties, which draw men together, as family affection, and the like ; and those defensive Affections are also Duties, which tend to the maintenance of Rights, as indignation at wrong.

668. The acknowledgment of the Intention of the Creator, as the proper Rule of our being, implies the acknowledgment of Obedience to his Will as our Duty, and as the Source of Duties. When we include in our view the Idea of God, his Will, whether learnt from Revelation, or from reasoning, and from whatever course of reasoning, becomes the Supreme Rule of Human action, and that from which all other Rules are derived. He it is who makes our Duty and our Happiness coincide ; and whether we say that Moral action will lead to Happiness because it is our Duty, or that it is our duty because it will lead to Happiness, we rest the reality and force of our Moral Rules upon the idea of God, who has established this coincidence of Duty and Happiness.

669. But we are not bound to God merely by the bonds of the Duty of Obedience. There are Affections which are naturally and necessarily due to him, and which further bind us to him. We are bound to him by the ties of Gratitude for innumerable and immeasurable benefits which we have received ; for from him we have received all that we have or are. We are bound to him by relations of Order, as being, by the nature of things, our Sovereign Master and Lord. We are bound to him by

Love and Admiration, as containing in his essence the perfection of that Goodness and Justice which are the proper objects of Love and Admiration.

670. This, our Connexion with God by ties of Dependence, Obedience, and Affection, is often and fitly expressed by speaking of him as our Father, and the Universal Father of mankind. We are his children, and he is the proper object of our Filial Affection; only, that our filial affection to Him may assume, and ought to assume, a character of entire and confiding Reverence, which has no reserve, doubt, or limit; as the affection to our human parents sometimes may or must have.

671. Looking upon God as our Father, and the Father of all men, we are naturally led to look upon all men as our Brethren. All mankind form one great Family; and as all the mutual Duties and Services between the Members of a Family become manifestations and results of the Family Affections, when these are fully and freely unfolded, so all Duties and Services between the members of the Great Human Family (291) become results of the fraternal love which belongs to their condition as common children of one universal Father.

672. A sense of our Dependence, our Gratitude, our Reverence, when these feelings exist towards men, find their expression in various forms of language and other indications. God does not present himself to us as a Person to whom we can speak face to face. We conceive him as an Energy and Intelligence, producing, upholding, pervading, seeing, knowing, and judging all things. He created and unfolded, he continually preserves, continually observes us. In him we live and move. He is not far from every one of us. He is acquainted with our thoughts and feelings, as soon as they arise in our minds. Hence, when our feelings of Dependence, Gratitude, and Reverence, take any definite shape in

our thoughts, and become clothed in Conceptions and Images, we may conceive that these forms of our affection become known to him of themselves, without the use of words on our parts. But in fact, our affections cannot be very definitely clothed in conceptions and images, without at least the mental use of words ; and for the most part, these forms of feeling become more distinct by being uttered and heard by men among men. Besides, in the common participation of such feelings, and in the common contemplation of the conceptions and images in which they are clothed, there is an influence by which they become more intense in men's minds, and are communicated from one mind to others. Hence, to mould our feelings of Gratitude and Reverence towards God into words, will tend to cultivate these feelings both in our own minds and in the minds of other men. Such feelings are *Natural Piety* ; and this Piety may be promoted, by being expressed both in solitude and in the company of men.

673. But we may not only express our feelings of Piety ; we may direct these expressions to God. God is a Mind, in which are Intelligence, Purpose, Will, Thought, as in our own. We necessarily conceive him as a person, and we can address ourselves to him as a Person ; this address must be made in our thoughts ; for though God is near to each of us here, he is far off, or rather unapproachable, as an object of outward apprehension. And our internal addresses to God must necessarily be such as to imply that entire Dependence upon him, which is the first of the affections due to him. This may be implied, by humbly asking from him some of the benefits which he can give us. Such internal address of our thoughts to God, in which our dependence is expressed by words of Petition, are *Prayers*. Benefits, as they come from him, and express his Benevolence to us, are *Blessings*. And as we pray to

God for future or continued Blessings, we express our gratitude for past Blessings in *Thanksgivings*. We express our admiration of God's character in *Praises*. Such expressions of Natural Piety have been common in all ages ; although, for the most part, mixed with vague or arbitrary images and conceptions, arising from the imperfection of men's moral and intellectual, and still more of their religious culture.

674. Prayer, Thanksgiving and Praise, are properly and primarily the language of each man's thoughts to God ; when the feelings of Natural Piety have been duly unfolded. A man, in his Private Prayers, asks for Blessings for himself, and especially for such Blessings as may aid him in his moral progress ; for strength to resist temptation, and to elevate and purify his mind. But also, since the affections which are due to God, arise from the condition of human nature which is common to all men, men feel that a common expression of such feelings by assemblies of men is also suitable to their condition. Accordingly, Public Prayer, by assemblies of men, and other public expressions of religious feelings, have been employed in all ages and nations. Such acknowledgments of the dependence of man on God, and man's reverence for God, expressed in words or by other indications, are *Worship* ; and men have in all times and places worshipped God ; although their notions of Deity have often been gross and fantastical, and their worship often inconsistent with moral and rational views.

675. Public Worship by assemblies of men necessarily implies Places and Times appointed for such Ceremonies : and these Places, Times, and Ceremonies themselves are naturally looked upon by men with a religious reverence : they are fixed by rule, and separated from all common uses ; they are *Sacred*. Special Sacred Places, as Temples ; fixed



*Sacred Times, as Festivals; appear to be universal Markers of Natural Piety. Religious Ceremonies are very various in various countries; but some, which may appear to our Reason to be arbitrary, prevailed very extensively among the ancient nations, and from the earliest times; as Sacrifices of Animals. These Sacrifices were undertaken as an acknowledgment of Sin on the part of the Worshippers, a Supplication for Forgiveness, and a Means of Propitiation.*

676. *The Natural Piety, of which we have spoken, is a part of our Duty; for it is a part of the Christian Piety, of which we shall have to speak. Paul spoke to the people of Lystra of God, as manifested to man's natural reason by the works of nature: God, he said, even before the teaching of Revelation, left not himself without witness, in that he did good, and gave us rain from heaven, and fruitful seasons, filling our hearts with food and gladness (Acts xiv., 17). And when he preached to the Athenians, taking occasion from an altar with the inscription to the Unknown God, he said (Acts xvii., 28), Whom ye ignorantly worship, him declare I unto you. And he went on to deliver the views of Natural Piety; God that made the world and all things therein...hath made of one blood all nations of men for to dwell upon the face of the earth; and hath determined their appointed time, and the bounds of their habitation; that they might seek the Lord, if haply they might feel after him till they found him. And yet he is not far from every one of us; for in him we live, and move, and have our being; as certain also of your own poets have said, For we are his offspring. As was the Psalmist David, which are adopted and confirmed by Christ and his disciples as a part of the Revelation of God, are full of the Recognition of God and his character, as manifested in the works of his creation: In these songs of Praise, God is constantly*

spoken of, as alike declared to us by the visible heavens and earth which surround us, and by the moral law which is within us ; as in the nineteenth Psalm ; *The heavens declare the glory of God, and the firmament sheweth his handy-work* ; and a few verses later, *The Law of the Lord is perfect, converting the soul*. And Jesus Christ himself speaks to us of God *who clothes the lilies of the field, and without whom not a sparrow falls to the ground*. Thus the convictions of Natural Piety are adopted as a fundamental part of that belief which Christ and his Apostles taught.

The dictates of Natural Piety, in so far as they direct us to fixed times, places, and forms of worship, are also adopted and carried into detail by Christian teachers, as we shall hereafter see.

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## CHAPTER XI.

### OATHS.

677. **THERE** is another expression of our feelings and convictions respecting God, which has found a place among the usages of all nations, and may therefore be considered as a result of Natural Piety. I speak of Oaths. As we have already said (318), we may make, or may wish to make, a promise or a declaration in a manner more earnest, more considerate, more *solemn*, than ordinary. Natural Piety suggests, as the most solemn way in which this can be done, the doing it with express reference to our belief in God, in the presence of other men, in some form of this kind : I promise, or I declare, *in the presence of God ; as God is my Witness ; as God is my Judge*. We stated that, in the violation of a solemn promise or declaration, the transgression of morality

is very great, because we have willingly and purposely rested a great share of our moral progress upon our truthfulness in this instance. It is consistent with this view to confirm a solemn promise by an Oath. For in the eye of the religious man, the end and aim of our moral progress is the happiness which God makes to be the consequence of moral progress rightly pursued. By acting as in his presence, by purposely referring to him as our Witness, and as our Judge, we involve in the consequences of our acts, so far as we can, our total future happiness in this world and the next. If we transgress, we renounce our claim to the happiness which God will give to Truthfulness, without which no character can be otherwise than depraved.

678. It may perhaps be objected to the use of such expressions as this; *In the presence of God*; and the like, we make a difference between one action and another, which we ought not to make; since a religious man will do all things as in the presence of God. But to this the reply is obvious; that the use of such words brings the thought more home to us, for the moment, however familiar it may commonly be; and that such public references to the truths which we believe in common with other men, are among the means by which the belief becomes specially effective in our actions. We may add, that in those acts which especially consist of words, as promises and assertions, the religious thought, which ought to accompany our words, may very justly be also expressed in words. To avoid sins of thought, it may be enough that we *think* ourselves in the presence of God: but when we have to speak, we may utter this thought among the rest, and say that we *speak* as in the presence of God.

679. As an Oath implies hope of the happiness which God gives to virtue; it implies also fear of the unhappiness with which he will punish falsehood, and

especially falsehood committed in a case in which he has been thus appealed to by an Oath. God is regarded as the avenger of Perjury. And this has sometimes been expressed in the Oath ; God being spoken of, not only as the *Judge* of men, but as the *Punisher of Falsehood*. In some cases, there have been added *Imprecations*, that is, prayers for evils upon the swearer, if he break his Oath. But it is more suitable to the Reverence which we owe to God as our Judge, that we should leave the details and mode of his Justice to him. On the other hand, an oath seems to imply a prayer for Divine assistance to enable us to keep our Oath. Man's command over his future actions, still more over his affections and wishes, is not absolute ; and temptations may occur, when the assistance, which religious men seek to obtain by prayer, may be needed, in order that the sworn man may keep his Oath inviolate. This appears to be implied in the phrase used in many Oaths, *So help me God ; ita me Deus adjuvet*.

680. It has been said by some, that these phrases mean : *On that condition* alone, and no other, may God help me : If I break this oath, may he cease to help me, and leave me to misery. On this view, the Clause, *So help me God*, has been spoken of as a kind of Imprecation. But it is difficult to accept this view. . If this were the sense intended, the more proper expression would be, *So bless me God*, *So reward me God*, or, *So save me God* ; expressions which are not commonly used in Oaths. The expression, *So help me God*, agrees very well with the view which we have given of a solemn promise, that upon our truthfulness in this instance, we are willing to risk our whole moral progress ; or, as the religious man rather views the matter, our favour in the eyes of God, and the happiness which he can give. For in incurring such a risk, a man may well say, " May

God help me to escape this danger." And the word *No*, in this formula, must then mean ; " May God so truly strengthen me when I am weak, as I truly intend to use all my strength in order to keep my oath."

681. It has sometimes been objected to the use of Oaths, that it is irreverent towards God, to employ his name, and invoke his agency, for the purpose of carrying on human affairs. But we reply to this, that an Oath is really an act of reverence. We do not doubt that God does so far attend to human affairs, that he judges our actions, and will punish us if we commit wilful and deliberate falsehood. We do not pretend to call in his agency ; but to express our conviction that he will act as our judge. A falsehood, uttered with this thought brought before us, is really a more flagrant sin against him, and must be supposed to draw upon us heavier punishment than an offence done thoughtlessly. In short, in an oath we do not pretend to direct the attention of God to man, but the attention of man to God.

682. We may add, that an Oath, by referring the matter to the Providence of God, secures us from all claim of regard to man. If we had, unsworn, to give evidence which would inflict loss or disgrace upon a very powerful man, or a very dear friend, the person might, if he were one who thought that some falsehoods are excusable, expect us to withhold or distort the truth, for his benefit or exculpation ; but no one holds Perjury to be excusable ; and the fact of our giving our evidence on Oath, at once destroys all expectation that we will violate or trifle with the truth. It destroys this expectation so completely, that even the person proved to be guilty, feels commonly no resentment against the Witnesses who prove him so. This could result from nothing but from the establishment of an absolute and supreme obligation to tell the truth, such as an Oath alone can establish.

683. Instead of using the name of God, the phrase *I solemnly affirm*, and the like, have sometimes been used. The reason for this substitution would be intelligible, if the phrase were employed to avoid a recognition of the existence of God : but among men who believe that God will judge them, it does not appear what sense can be conveyed by the word *solemnly*, except that they recollect that there will be such a judgment. If the expression do not excite the same thought as if they had said, *In the presence of God*, it does not seem to have any meaning.

684. It is sometimes said, that if a man cannot be believed upon his word, he cannot be believed upon his oath ; that if he will commit falsehood, he will commit perjury. And undoubtedly, a perfectly good man is as incapable of the one, as of the other. A person in whom the operative principle of Truth is completely established and developed, will not tell a lie ; and on him, an Oath would produce no effect which could not be produced without it. But the world is not composed of perfectly good men. The moral culture of many, we may say of most persons, is very imperfect, with regard to Truth. Besides that they often speak thoughtlessly, there are kinds and occasions of falsehood, which they deem allowable or excusable. We have noticed some of these, in speaking of Cases of Conscience respecting Truth. We have there stated that, our moral culture requires entire truthfulness ; or, as the religious man will express this, that God's approval cannot be given to anything short of entire truthfulness. But men, in their common daily actions, do not think much of their moral culture, and of God's approval. The object of an Oath is, to raise them from their common mood, in which they claim excuses and allowances for falsehood, into that state of mind which the thought of God's judgments is fitted to call forth.

And Oaths do produce this effect. Men's minds are solemnized by this form of an engagement. Under this impression of an Oath, they no longer claim excuses and allowances for their falsehood. They speak with consideration and gravity. If they give testimony on Oath, they are careful in their recollection of the fact. If they promise on Oath, they are watchful over themselves for the future.

685. The Oaths commonly in use among men are principally of the two kinds just referred to; Oaths of Testimony or Assertion, and Oaths of Promise or Engagement for the future. Oaths of Testimony impose upon us an especial duty of careful recollection and exact narration. The formula used in the administration of English law expresses this; it requires men to speak *the truth, the whole truth, and nothing but the truth, touching the matter in question*. But in the cases in which this is employed judicially, it is for the Tribunal, rather than for the Witness, to determine what is the *whole truth touching the matter in question*: and the English Courts of Law expect only that the Witness shall answer the questions put to him. They also excuse him from doing this, when the answer would criminate himself. These definitions of the Obligation of the Witness, are also the definitions of his *Duty as a Witness*. As a lover of Justice, it will often be right for a man to do much more than this.

686. In the same manner, Oaths of Assertion; as when we declare the value of our income, or of anything belonging to us; impose upon us a Duty of careful examination of the matter concerning which we assert; and an entire sincerity in asserting, without reserve, equivocation, or straining of the truth. Thus an Oath that we have not received or paid money, or reward (as in oaths against bribery at elections, sale of ecclesiastical offices, and the like), is violated not the less, if the money be received and

paid by some contrivance which escapes detection, or evades the law.

687: Oaths of Promise with regard to special acts are not much in use among us. We do not require a man to swear that he will perform a contract, or resign an office, or the like. The law has other ways of enforcing its Will, on such points. Our Oaths of Engagement for the future are, for the most part, promises of a general course of action; and promises of certain dispositions as suitable to the condition to which we look forward. Thus we have Oaths of Office administered to Magistrates, Judges, Jurymen, Legislators, and to the sovereign himself; and Oaths of Allegiance, administered to the subject. In these Oaths, the swearer engages to conform to the Laws of the Land in the discharge of his office; and also, generally, to act with care, impartiality, and equity. He promises to be faithful to the law, and the intention of the law; which intention is understood to be, the administration of justice. The subject promises *Allegiance* to the Sovereign; which was formerly further explained in the Oath itself: *I promise to be true and faithful to the King, and not to know of any ill or damage intended him without defending him therefrom.* These Oaths all engage the swearer to that conduct, and those dispositions, which morality would require without the Oath. For the Magistrate's Duty is generally to administer the law, to regard the intention of the law, and to identify this intention with justice (333). And the Subject's Duty is generally, as we have already said (309), a willing obedience to the laws, an affection for his country, a love of its institutions and of its constitution, a loyalty to its sovereign. There may be special cases of exception to these Duties; as when the Magistrate cannot look upon a particular law as other than unjust: or when the Duty of Allegiance is broken, under the pressure of a case of extreme



necessity. Oaths such as we have just mentioned, which engage the Swearer to that course of action which forms the General Rule of Morality, are inconsistent with a contemplation of the cases of Exception, as *promissory* or *frequent*. A person cannot, without the guilt of Perjury, take an Oath to administer the laws faithfully and justly, if he believe that to administer the laws faithfully will be to commit habitual injustice. A Subject cannot swear allegiance to the reigning Sovereign, if he not only believe him to be an usurper, but if he also be ready to join in a scheme for deposing him, if a favourable occasion should arise. Oaths of Office, of Allegiance, and the like, are to be taken in such a manner, as to identify the citizen's Duties with his Obligations: and by being Oaths, they further express his conviction that the discharge of Duties, and therefore of legal Obligations, is the only way to obtain the approval of God, and the happiness which he bestows with his approval.

655. Besides the general moral engagements contained in Oaths of Office, such Oaths often include some specification of a particular subject, with a prescribed course of action relative to it; thus, the English Sovereign, at his Coronation, swears that he will maintain the Protestant Reformed Religion established by Law: Members of Parliament take a similar Oath: Officers of special bodies, as Colleges and Corporations, in many cases take Oaths to observe the Special Laws of their body, to maintain its privileges, and the like. Along with the Oath of Allegiance to the Sovereign, there has often been demanded an Oath of Allegiance also to his Heirs; or an Oath of Renunciation of the Obligation of Obedience to some rival Authority: as in this country, we have, in addition to the Oath of Allegiance, the Oath of Abjuration, in which we abjure the Authority of the Pope.

689. All such Oaths require of him, who takes them, a sincere and unchanging purpose to do what he thus engages to do.

For instance, If an officer of a corporation, having sworn to maintain the Protestant Religion, should afterwards endeavour to overthrow it ; it would be no exculpation for him to say that he had become convinced that the Protestant Religion was erroneous. If a man has entered upon an office engaging himself to a certain course of conduct, and afterwards thinks such conduct wrong ; he is bound by Justice and Truth to give up his office ; and cannot honestly pursue any other course. In this case, as in others, Law supplies the definition, which is requisite to give form to Justice. The Oath of Office is the expression of a Contract between the Body and the individual. If he breaks the Contract, and keeps his share of the advantage which it gave, he is guilty of fraud and falsehood, aggravated by Perjury.

690. An important question in many cases of this kind is, how the Oath is to be *interpreted*. Of course, a Promise so made, like other Promises, is to be interpreted according to the common intention of the two parties ; or according to what is the intention of the party imposing the Oath, and is understood to be its intention by the party taking the Oath. And this is, accordingly, the Rule generally given. The Rule is stated by saying that the Oath is to be understood *secundum animum imponentis*. But here the question occurs, in the Oaths of office, and the like, Who are the Parties between whom the transaction takes place ? Who is the Imposer of the Oath ?

691. We reply, that in Oaths of Office, the Imposer is *The State* ; which we have already described as a permanent Moral Agent ; and which is, of course, capable of being Party to a Contract. The State is the Imposer of all such Oaths ; for all Offices derive their Authority from the State, and

all Special Corporations derive, from the State, their power of making Laws ; and therefore, the Authority of their Laws. Hence these Oaths, which express the conditions on which the authority, or the advantages of the Office, are assigned to the individual, express the conditions imposed upon him by the State.

692. The State, as we have said (470), is one and permanent, while the persons of whom it consists are many and transitory. The Intention of the State is expressed in the language of the Oath ; and if there be, in this, anything which requires interpretation, the Laws and Legislative Proceedings which accompanied the enactment of the Oath may often aid in pointing out the right interpretation. But this is not the main source of interpretation. The State continues to exist after each such act of Legislation ; and the State which to-day imposes the Oath, is not identical with the Legislature which, many years, perhaps centuries ago, enacted it. The State may itself interpret the Oath, by a Declaratory Act ; and may often prefer this course to the substitution of a new and clearer Oath ; on the ground of many inconveniences which attend the change of ancient and usual forms. There are also other ways, in which the State may give its interpretations of the Oaths which it imposes ; as in the decisions of Courts of Law, and the like. But yet, if these interpretations be in apparent contradiction with the most obvious meaning of the words of the Oath, religious men and lovers of truth, especially if they have not fully considered the difficulties of such legislation, will be shocked with the incongruity ; and the offence thus given to them, may be a reason for the State changing the form of the Oath.

693. There are cases in which even the silence and inaction of the State may be looked upon as implying, in some measure, its view of the meaning of an Oath. If an Oath contain clauses which plainly

imply usages or conditions notoriously obsolete, and if it be still enforced by Authority ; it may be reasonably supposed that the State, the Imposer of the Oath, is aware of the practical omission of what is obsolete, and acquiesces in it. But here, also, when the discrepance between the words of the Oath and the practice becomes glaring, it is desirable, on that account, to alter the words, in order to avoid the shock which the incongruity causes to religious men and lovers of truth, who have not fully considered the difficulties of such legislation.

694. Yet there may be other reasons which may, for a time, balance this ; and may reasonably prevent the change from taking place. The doctrine, that an implication of, and reference to, obsolete conditions, in the words of an Oath, renders it desirable or right to alter the Oath, cannot be carried out rigorously. For such is the constant progress of human affairs, and such, in consequence, the constantly proceeding changes in the use of terms, that we cannot employ words which will not, after a time, imply something no longer existing in practice. And this implication of obsolete things does not necessarily make the words of an Oath unfit to be retained. When we swear *Allegiance* to our *Sovereign Lord* the King, the terms *Allegiance*, and *Sovereign Lord*, imply the relations of the feudal system ; but the Oath has been still properly retained ; it being understood, by the State and by the Swearer, that the fidelity which is thus denoted, is such as suits the altered relations of the Governor and the Governed ; and this has been supposed, at every step of the gradual change, from the original to the present condition of the Constitution. The same implication would be involved in an Oath in which the terms *fealty*, *loyalty*, *homage*, should occur ; but such an Oath would not, on that account, be a bad one. In like manner, if the term of an ancient form should

engage us to *worship* a person, the sense being to show personal respect and regard (as in the English Marriage Service), we might still use the form with a safe conscience. And thus, when the terms of an Oath have gradually changed their meaning, or become obsolete, or inapplicable to the existing state of things, if the State continue to impose the Oath, it may be supposed that in imposing it, the State assents to the modification of meaning which is necessary, in order to make the declaration significant and applicable. And the person taking the Oath, if he intends to fulfil the engagement as nearly as the altered condition of things allows him to do, may be considered as taking it *in the sense of the Imposer*; and therefore may do so with a good conscience.

695. If it be objected to this, that we thus make Custom the Interpreter of the Law, instead of making Law the Regulator of the Custom; we reply, that the Custom, which we take for this purpose, is Custom sanctioned by the State; that is, by the Giver and Guardian of the Law. We may add, that to a great extent we cannot avoid making Custom, or, more properly speaking, History, the Interpreter of the Law; for Custom and History determine the meaning of words and phrases; and often determine them to have a different sense, when used in official formulae, and when used in common speech; as we see in innumerable examples in laws and law proceedings. History modifies the relations of men, classes, offices, and occupations, from time to time; and must necessarily modify the meaning of the language in which such things are spoken of.

696. If we were to insist upon this;—that Laws and Oaths should always be interpreted according to the *common usage* of speech at the present day;—we should make it necessary to alter a great part of our present law language; and on such a supposition, no oaths could be employed, except their terms were

—either so general as to apply alike to all periods of history, which would deprive them of all special meaning, and of all effect; or else, except their terms were constantly changed, as fast as common Language and the relations of men change; and the changes thus requisite would need to be made every few years. This would defeat the purpose of many of our Oaths; which is, to produce a permanence, and continuity, in the general structure of our institutions (as, for instance, Colleges), in spite of the constantly proceeding historical changes. Such a course of public administration would require a perpetual interference of the Legislature, for the purpose of remodeling Oaths; which interference would, in fact, be a constant innovation. Those who wish for the permanence of ancient Institutions, are aware of this; and are very reluctant to alter ancient *forms*; and Oaths among the rest.

697. If the person, taking an Oath, of which the object is plainly the permanence of the Institutions to which it refers, assent cordially to this purpose, this cordial agreement in purpose with the Imposer (for the State, by retaining the Oath, must be supposed to assent to the object of the Oath), will enable the Juror to interpret, also, in the sense of the Imposer, the parts of it which are obsolete and inapplicable. He will necessarily interpret such parts, so that they shall be in consistency with the main purpose. There are many cases, in which great changes have been gradually effected in the Institutions to which Oaths refer; changes, not produced at any period wilfully, but brought in necessarily, in order to keep the Institutions in coherence with the general state of the nation, and to carry on the design and business of the Institution. It is evident, that in such cases, to revive, at the present day, the obsolete usages and conditions which the terms of such Oaths originally denoted, would be to defeat the main pur-

pose of the Oaths ; namely, the Stability of the Institutions. Such restoration of Antiquity would be a most perilous innovation. Such a literal fidelity would be a real treachery, or at least a practical hostility, to the purpose of the Founders.

698. Even if the predecessors of the present generation were to blame in admitting such changes (although in many cases they had no choice in the matter), still the present generation have inherited the changed state of the Institution, and cannot, however much they might wish and try to do so, recall the original condition of things. All they can do, so long as the State does not change the Oaths, is to observe them, interpreting them in good faith, according to existing conditions, notorious to the State as well as to the jurors. But probably, in such cases, there may be no need to blame preceding generations, in order to exculpate the present. Probably each generation, in its turn, has had the same excuse. The changes were gradual ; each generation interpreted the ancient Oath in good faith ; and intended to fulfil it, as nearly as altered circumstances permitted, in the sense of the Founders : and, therefore, as we have said, truly in the sense of the Imposer. And if there have been this continued good faith, regulating the practice of succeeding generations, such practice may be taken as an Interpretation of the engagement, sanctioned by the Imposer.

699. It is, however, quite necessary to attend carefully to the condition, that the practice of each generation should be adopted *in good faith* : in order to give it authority as an Interpretation. If men deviate from the course which the terms of their engagement imply, wantonly, carelessly, or unnecessarily, they are, no doubt, guilty of breaking their engagement ; and if an Oath have been taken as a confirmation of it, guilty of Perjury. If they have disregarded both the Purpose of the Founder and

the Letter of the Oath which he framed, they are without any excuse. The changed circumstances of the times, which make literal observance of the engagement impossible, do not thereby make the Oath unmeaning. It must be carefully interpreted according to the intention of the Founder; admitting, into the Interpretation, only such changes of the meaning of terms and details as have been produced by the general progress of change; and not by any purposes different from those of the Founder. Each generation of the members of an Institution, endeavouring, in care and good faith, to conform to their engagements, may have authority as Interpreters of their own Rules, but not as Rivals of the Founder.

700. Moreover, in order thus to act in good faith, it is not sufficient that the existing members of the Institution so conduct it, and so apply its Laws, that they do what they conceive the Founder *would have wished* to be done, if he had lived in present times. This Supposition, of what the Founder *would have wished*, is far too vague to afford any good ground of action. To make such a Supposition the Interpretation of the engagements prescribed by the Founder, is contrary to the nature of an engagement. In a Contract, it is not sufficient to do what we suppose the other party *would wish*; we must do what we *have contracted* to do. The same is the case in an Institution with written Laws, which we have engaged to observe. The Founder has made his body of Laws, and his Oaths, because he was not content with a general statement of the purposes which he wished to promote; just as all Legislators prescribe detailed modes of action, and not merely general courses of action. The Founder has prescribed means, in subservience to his end. If some of these have been silently excluded by time, without any choice of ours, we may blamelessly acquiesce in the exclusion: and perhaps we may deem the



Founder short-sighted ; as, in truth, no Legislator is long-sighted and sagacious enough to provide for all the changes which arrive. But we may not, without blame, substitute other means for his, when we have a choice. We may not, after engaging to conform to his plan, reject it, and substitute one of our own.

701. What degree of particularity it is prudent to introduce into the special Laws of Institutions, with a view to their permanence, is a question of Polity, which we shall not here consider. But it is evident that if particular details and arrangements, which are judicious at first, are prescribed by Laws ; and if the Laws are interpreted according to the Rules above laid down ; such Laws will contribute greatly to the permanence of the Institutions, so regulated ; and will tend to secure their consistent effectiveness in promoting their original object, amid the external changes which the course of the national history brings.

702. But though we must thus allow to the State, the Imposer of the Oaths, and other engagements, which we are now speaking of,—some range of power, in interpreting the terms of such engagements in a sense different from the original sense ; and though we must hold that the Interpretation of the Imposer relieves the Conscience of the Juror ; we must not carry this doctrine and its application too far. There are strong moral reasons for being careful on that side. The State may be regarded as having, for one of its objects, the moral Education of the people ; and its Laws, and the administration of its Laws, are among the means by which it promotes this object. And it will fail in teaching lessons of Truthfulness by its Laws, if it lightly sanctions an interpretation of an Oath which differs from the obvious sense of the words. By the currency of such *forced* interpretations, so sanctioned, many

persons will be led to carelessness and indifference about Truth, in taking such engagements ; and thus the State becomes a Teacher of immorality.

703. And again, on the other part ; though the Juror's conscience may be relieved in such cases, it can hardly be quite satisfied ; especially when the interpretation is only *presumed*, from the silent acquiescence of the State in notorious changes. For the notoriety may be imperfect, and the acquiescence must be more or less doubtful. The silence of the State may imply, not that it acquiesces in the existing practice, but that, though it disapproves of the practice, the time and the occasion for legislative interference have not yet arrived. In this case, the Juror does not swear according to the interpretation of the Imposer ; and his conscience must be the more disturbed, according as this is more probably the case.

704. Hence, in all cases in which there is a manifest contradiction between the words of an engagement, and the sense in which it is commonly performed ; and especially if there has not been any authoritative sanction of the usual practice ; it is desirable, on moral grounds, to alter the words, so as to remove the contradiction. The Legislators ought to endeavour to do this, as acting for the State, and being, on its behalf, desirous of promoting Truthfulness and Integrity. The Jurors ought to aim at the like alteration, as being desirous of having no grounds for dissatisfaction in their consciences. And since in England, every man has, by Petition or otherwise, the means of seeking a Legislative change ; the persons who are required to take an Oath or an Engagement, under circumstances such as have been described, are bound in conscience, when the contradiction between the words and the practice is apparent, and still more, if all sanction of the practice be wanting, to aim, by constitutional means, at the removal of the contradiction.

705. In this discussion on the subject of the Interpretation of Oaths and Engagements, we have had to touch upon questions which rather concern the Duties of Truth, than the subject of Natural Piety, with which we began. But this could not easily be avoided : for the Duties of Truth, though they belong to all our engagements, are never so carefully studied as when they depend upon our *most solemn* engagements; namely, those which are confirmed by Oaths. And though the breaking of an Oath is an offence against Piety, a transgression of the Reverence due to God, and a disregard of the Fear of his Punishment; it is so, because he is the God of Truth, and will punish Perjury as aggravated Falsehood.

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## CHAPTER XII.

### CHRISTIAN PIETY.

706. THE Duties and Affections which belong to Natural Piety are also, as we have said (676), a part of Christian Piety. The Duty of Obedience to God (654) is the foundation and measure of all other Duties. That which is wrong, is so because it is contrary to his Will. Moral Transgression derives an especial depravity from its being Sin against God. Sin is the object of his condemnation; it is spoken of, in figures borrowed from the constitution of humanity, as the object of his *Anger*. Obedience to his Will, and the Dispositions which produce such Obedience, are the object of his Love. Sin will be the subject of his Punishment, Obedience of his Reward. There will be a *Resurrection of the Dead* to this end (John v., 28): The hour is coming, when

all that are in the graves shall hear the voice of the Son of God, and shall come forth : they that have done good unto the *Resurrection of Life*, and they that have done evil to the *Resurrection of Damnation*. And the life here spoken of is elsewhere called *Eternal Life*. Thus the Supreme Rule of Human Action, on which the final happiness or misery of each man depends, is identified with the Will of God, and receives its Sanction and its force from this identity.

707. The Will of God with regard to Human Actions is known to man, partly by Reason, and partly by Revelation. We have, in the preceding Book, given a view of that Morality which is supplied to us by our Reason ; and in the present Book, we have added to it a view of Christian Morality, as it is supplied to us by the Scriptures of the New Testament. The Precepts there given point out the Christian's duties, as they are expressed by means of special Precepts.

But the general views which the Christian Revelation discloses to us, also give us new light with regard to our Duties, and with regard to the Dispositions which are to lead us to perform them. We are taught, That our failures in Obedience to God's Will, our Sins, are to be repented of ; that our Repentance must necessarily be addressed to God, and must take the form of a Supplication for his Mercy and Forgiveness, to be extended to us, notwithstanding our Sins : that (587) God has provided a means by which we may find Mercy and Forgiveness ; namely, the sending of his Son Jesus Christ upon earth to suffer death for our sins, and to rise again for our Justification (Rom. iv., 25). We are taught further (588), that God has provided means not only for our Justification, but for our Sanctification ; not only for the Remission of our sins, but also for elevation of our nature to that Holiness (575) without which we cannot be admitted to his Blessedness.

709. These provisions for the Instruction, Pardon, and Manicification of man, impose upon us a far larger Duty of Gratitude than the benefits which Natural Piety contemplate; inasmuch as the eternal life, and blessedness of the soul, thus provided for, are far greater benefits and evidences of God's Love, than mere human life, with its accompaniments as discerned by reason. The Christian's gratitude to God is founded mainly on his Christian blessings; and ought to be infinite as those blessings are infinite.

700. The Christian is especially taught to look upon God as his Father. Christ taught his disciples to begin their prayers with a recognition of this relation: *Our Father, which art in Heaven.* The special manner in which Christians become the sons of God, is often referred to. Thus 1 John iii., 1, *Behold, what manner of love the Father hath bestowed upon us, that we should be called the sons of God.*

This privilege of being the sons of God implies, we are told, not only that we have had great benefits brought within our reach by his coming on earth, but that we may, as one of the greatest of these benefits, become like him. Thus in the passage just quoted, St. John adds: *Therefore the world knoweth us not, because it knew him not. Beloved, now are we the sons of God: and it doth not yet appear what we shall be: but we know that when he shall appear we shall be like him.* St. Paul carries this further (Rom. viii., 14): *As many as are led by the Spirit of God, they are the sons of God. For ye have not received the spirit of bondage again to fear (ye are not in the condition of slaves, who obey through fear merely); but ye have received the spirit of adoption, whereby we cry, Abba, Father. The Spirit itself beareth witness with our spirit that we are the children of God; and if children, then heirs; heirs of God and joint-heirs with Christ: if so be that we suffer*

*with him, that we may be also glorified together. And in the same way elsewhere (Gal. iv., 5) we are told that God sent forth his Son...that we might receive the adoption of sons. And because ye are sons, God hath sent forth the Spirit of his Son into your hearts, crying, Abba, Father. Wherefore thou art no more a servant, but a son; and if a son, then an heir of God through Christ. And the Apostles naturally and forcibly urge this as a ground of the Love of God: as 1 John iv., 9, 19, In this was manifested the love of God toward us, because that God sent his only-begotten Son into the world, that we might live through him... And we love him, because he first loved us.*

710. The Love of God, our heavenly Father, like the love of a Human Father, tends to produce an Obedience of the Heart (284). So far as the Love of God is unfolded and established in the Christian's heart, it supersedes all other motives to obedience to the Moral Law, and becomes his constant and universal Principle of Action.

711. The relation of Christians to each other, as Children, in an especial manner, of God their common Father, is urged upon them by the Apostles, as a motive for a brotherly Love, which ought to exist between them, and out of which all Duties to men must spring. Thus St. John says, in a passage lately quoted (1 John iv., 11), *Beloved, if God so loved us, we ought also to love one another.* This mutual Love is constantly enjoined by the same Apostle as the evidence of our Love of God: (1 John iv., 20), *If a man say, I love God, and hateth his brother, he is a liar.* The same is the general tenour of the whole of the Epistles of St. John. St. Paul, following the teaching of Christ, says (Gal. v., 14), *that all the commandments are comprehended in this one saying, Thou shalt love thy neighbour as thyself.*

712. This Christian Love of men as our

brethren includes, as St. Paul states in the passage just cited, all other duties ; and includes them in a form more complete than mere Morality can give them. This love will necessarily exclude all thought of mutual injustice and falsehood. The Christian teacher says (Acts vii., 26), *Ye are brethren ; why do ye wrong one to another ?* And (Eph. iv., 25), *Speak every man truth to his neighbour ; for we are members one of another.* Christianity taught men that they were to reject the tenacity of their own Rights, out of which opposition and unkindness rise, and were to seek each other's good as members of one family. The effect of this teaching showed itself in the manner in which, at the first preaching of the Apostles, the converts threw their possessions into the common stock (Acts iv., 34) ; and has constantly operated since, to make those who are Christians in spirit ready to give and glad to distribute, and specially careful of the interests and comforts of their neighbours. In this respect Christian Morality has introduced into the world a standard much higher than the Morality of Reason.

713. The Duty of Prayer to God, which is suggested by the feelings belonging to Natural Piety, is confirmed and more strongly enjoined by Revealed Religion. The Old Testament contains the account of God's more especial dealings with men, as shown in the History of the Jews, the nation selected to be the especial channel of his Dispensations. The passages in the Old Testament, which enjoin or take for granted this Duty, are too numerous, and too familiar to our minds, to require to be cited. In the New Testament, this duty is still more earnestly enjoined. Christ taught his disciples (Luke xviii., 1), *That men ought always to pray, and not to faint* in such exertions. And he himself taught his disciples how to pray ; and spoke of many special occasions of prayer : thus (Matth. v., 44), *Pray for them that despitefully*

use you. (Matth. ix., 38), *Pray ye the Lord of the harvest, that he will send forth labourers into his harvest.* And he was himself frequently engaged in earnest prayer. (Matth. xiv., 23. Mark vi., 46. Luke vi., 12; ix., 28. John xiv., 16; xvi., 26; xvii., 9. Matth. xxvi., 36. Mark xiv., 32). The injunctions and examples of the Apostles on this subject are perpetual. The same is the case with Thanksgiving. Christ says (Matth. xi., 25), *I thank thee, O Father, Lord of heaven and earth.* And (John xi., 41), *I thank thee, Father, that thou hearest me.* In Acts xvi., 25, *Paul and Silas prayed, and sang praises to God :* and so on, in innumerable other places. No duty is more frequently and strongly enjoined than these are.

714. It has been suggested, as a difficulty respecting the Duty of Prayer, that in prayer we desire God to alter the course of the world, in order to comply with our wishes, as if we mistrusted his goodness and wisdom. But to this we reply, that the things which we desire of God in our prayers are, for the most part, spiritual blessings. *Forgive us our trespasses. Lead us not into temptation. Deliver us from evil.* The course of things to which these events belong is the Spiritual Government of God (592), and to that Spiritual Government our prayers also belong. In the spiritual world, the prayers of believers are events as real as their temptations, their deliverance, their forgiveness; and the former events may very naturally be conceived to produce an effect upon the latter. There is, therefore, in such prayers, nothing inconsistent with our belief in God's goodness and wisdom. And prayers for temporal blessings, as, *Give us this day our daily bread,* are rather to be understood as expressing our sense of our dependence upon God, than our desire that he should direct the course of the world according to our wishes. Such prayers are the expressions by



which our mere natural desires show, that though submitted to the will of God, they are not annihilated. We know that, except through the goodness of God, we cannot receive even our daily bread; and the desire of life, and of the supports of life, which religion cannot and does not seek to extinguish, she converts into a desire that God would give us what we need.

715. We are taught to combine, with our prayers to God, a *Resignation* to his will, whatever it may be, and a belief that what he does is for the best; whether he grant or refuse our prayers, and whether he give or take away apparent benefits. In the Prayer which Christ taught his Disciples to offer, he bids them say, *Thy will be done in earth as it is in heaven*. And though this clause expresses our Hope of the religious progress of men on earth, it also expresses our Acquiescence and Submission to the Will of God, whatever it may be. And Jesus Christ himself used this language in prayer as an expression of Resignation (Matth. xxvi., 42). The same lesson is enforced by the Apostles in their teaching. Thus (1 Pet. v., 6), *Humble yourselves under the mighty hand of God, that he may exalt you in due time; casting all your care upon him, for he careth for you*. And so iv., 19, *Let them that suffer according to the Will of God, commit the keeping of their souls to him in well-doing, as unto a faithful Creator*.

716. A main use of Prayer, however uttered, is to express and confirm a habit of Mental Worship. Christ himself said, when speaking of external forms of worship (John iv., 24), *God is a Spirit, and they that worship him must worship him in spirit and in truth*. And in comparison with the practice of ostentatious individual prayer which prevailed among the Jews, he enjoined Private Prayer (Matth. vi., 5). Such Private Prayer is indeed the natural utterance

of piety, as we have already said. And this utterance will be both more significant and more likely to confirm the affections of piety, if it form a part of the business of each day. Private Prayer every Morning and Evening may be so employed, as to tend to fix upon our minds the thought of God, of his blessings, his laws, and the hopes and encouragements which he sets before us ; and thus may aid in giving a moral and religious turn to our disposition and will during the whole course of our days.

Public Prayer and the other acts of Public Worship, which, as we have said, are universally practised among nations through the impulse of Natural Piety, are also recommended by other considerations, so that they become Christian Duties. Of these however we shall speak, under the Head of Christian Ordinances.

## CHAPTER XIII.

### RELIGIOUS BELIEF.

717. IN order that the Christian may have the benefit of God's provisions for his justification, sanctification, and final blessedness, the relation between God and himself must be brought home to his mind. He must believe in God the Father, and in Jesus Christ his Son our Saviour, as we have already said (587, 588). Such belief is so essential to the Christian's condition, that the terms *Believers* and *Unbelievers* are employed to describe those who are truly Christians and those who are not. The Christian may say, as St. Paul says (Gal. ii., 20), *I live by faith in the Son of God.*

This Belief, or Faith, includes an act of the Intel-

lect by which Truths regarding man's relation to God are assented to and accepted: and thus such Assent and Belief are Duties of the Christian.

We have already stated (446), that a Belief in the Principles of Morality is requisite, in order that a man's character may be moral. We have remarked, also, that this Belief must be, finally and specially, a man's own internal act (563), although he may be led to his belief by various external influences, which constitute his Education (564).

718. The Effect of a man's Education in the formation of his Belief is so great, that it sometimes appears to amount to an invincible cause of Error or Ignorance; and such causes, as we have said, (440), render Ignorance and Error excusable. Hence it may appear that Christian Teaching, when it represents Belief in Christian Verities as necessary to a man's salvation, is opposed to the Morality of Reason.

But we have already said (446), that Ignorance and Error with regard to Moral Principles are not acknowledged, either by Moralists, or by men in general, to be invincible, and therefore excusable. We have stated that there is a Duty of thinking rationally; and that a man is not excusable who denies the Duties of Kindness, Justice, and Truth. We further remarked (445), that if such Error were not an offence, it would be a calamity which must produce the same effect as an offence, upon man's destination. It must exclude him from that consummation of a good man's life, whatever it be, to which a continual moral progress leads; and to miss which is unhappiness.

719. What was thus said of Moral Error, must be said also of Religious Unbelief. A man is not excusable who disbelieves the Existence of God, for this is to disbelieve the identity of Virtue with happiness (565), and consequently the reality of

**Morality.** A man is not excusable who disbelieves the Providential Government of the world ; for we cannot believe God's Government to be a Moral Government, and yet to have no influence on the course of the world which he has created.

720. And the same must be extended to Disbelief in Revealed Religion. For the Christian Religion is the necessary completion of Natural Religion. The History of Christ and of Christianity is the *Fact*, by which alone the *Idea* of the Providential Government of the world is realized (581). Christian Morality is the necessary confirmation and purification of the Morality of Reason. And the Christian view of God's Provisions, for the salvation of men's souls, is necessary to give effect to men's Repentance, and to their efforts at Continual Moral Progress. A person, therefore, to whom the Truths brought to light by the Christian Revelation have been fully presented, and who disbelieves them, is as blameable, or as unhappy, as a man would be, who should deny the Government of Providence, the reality of Morality, the necessity of Repentance in Transgressors, and of moral Progress in all men.

721. It may be objected to this, that a large portion of the human race lived before the coming of Christ on earth ; and a large portion of those who have lived since that event, have not had Christian Doctrine presented to them ; that for the former, there was no Christian Revelation to believe ; and for the latter, no means of coming to the belief of it : that belief in the Christian Religion could not be necessary for the moral progress and final happiness of those portions of mankind ; and therefore, cannot be generally necessary for the moral progress and final happiness of man ; that therefore, Belief in Christian Doctrine cannot be a Duty, nor Unbelief culpable.

To this we reply, that those who have not had

Christian Truths presented to them, are not blameable for their ignorance of them. Christianity is a Fact : the coming of Christ on earth is a Fact ; and the Disclosures made by him and his Disciples, concerning God's dealings with men, are Facts, which men could not know by the aid of Reason alone. Involuntary Ignorance of Facts is not culpable, as we have already said (439). But this does not excuse those to whom these Facts have been presented with adequate evidence. Such persons fall under the blame which lies upon all persons who neglect or reject the evidence of Facts, which are of the highest importance in the right conduct of their lives.

722. When it is said, that—because the belief in Christian Religion was not necessary for the moral progress and final happiness of the ancients, or the heathen, who never heard of Christ—therefore it cannot be necessary for us ; we reply, that our moral progress is checked and destroyed, if we willingly stop, when we might go further ; and if we do not use means of advance which are presented to us. Christianity affords to us means of moral progress, which the ancients and the heathen had not. If we refuse these, we are not in the condition in which they were, who never had them offered. If we reject the opportunity of becoming, in the especial Christian sense, the sons of God, we are in a very different condition from the pious heathen, who did all that their light enabled them to do, in order to approach to God. And this may be said, without our knowing, what perhaps the Christian revelation does not very distinctly teach ; the nature of the advantage, in the condition of final happiness to which man's moral and religious progress leads, which the man, who has lived in Christian light, has, over the devout heathen who lived in unavoidable darkness.

723. In stating that men are blameable in disbelieving truths, after they have been promulgated,

though they are ignorant without blame, before the promulgation ; we follow the judgment of mankind, as formed in other similar cases. We attribute to a man an intellectual fault, we despise him as ignorant and confused in his thoughts, who thinks the earth to be flat, *now*, that it has so long been ascertained to be globular. We regard him as blind and foolish, if *now* he is not satisfied that the earth moves round the sun : though for so many centuries, the wisest and most clear-sighted of men never doubted that the earth was at rest. When such truths are once indisputably established as facts, we cannot help condemning those who reject the evidence of them. They violate the Duty of rational thought, of which we have spoken (446). And this is still more the case, in regard to moral truths. We excuse those who in early and rude stages of society practise or praise plunder of strangers, slavery, polygamy, concubinage ; but when the progress of the Standard of Morality (461) has shown that such things are immoral ; if any one among us defends such practices, we no longer think him free from blame. We are indignant at the low morality of his doctrines ; or at least we lament his moral blindness as his calamity. And in like manner with regard to Religion, although we do not blame, for their religious ignorance, the ancients, who could not know the Revelation of Christ ; and the heathen, to whom it has not been preached ; we do not excuse the moderns, who, now that there has taken place this great Revelation, elevating the moral views and spiritual hopes of men, refuse to believe the Truths thus established. They who do this, reject a light which has come into the world ; and the blindness in which they remain is not only their misfortune, but their fault.

724. This view of the Duty of accepting Christian Truth ; namely, that the Duty is incumbent upon men according to the opportunities which

belong to their condition ; agrees with the lessons of the Christian teachers. The duty of Believing in Christ, of accepting Religious Truth in general, is strongly urged by Christ and his Apostles. Yet this is not urged without regard to difference of opportunities. Christ taught (Luke xii., 48), *Unto whomsoever much is given, of him shall be much required.* When St. Paul preached to the Athenians, after describing their past idolatry, he added (Acts xvii., 30), *And the times of this ignorance God winked at ; but now commandeth all men everywhere to repent.* To the same effect, he preached at Lystra (xiv., 15), *The living God, which made heaven, and earth, and the sea, and all things that are therein : in time past suffered all nations to walk in their own ways : nevertheless he left not himself without witness.* This was joined with an exhortation to turn, now at length, to the living God. The whole scheme of the Christian Religion represented the Jewish Dispensation as an inferior and preparatory condition ; in which men did not see the meaning and tendency of the commands which they obeyed, and were to be judged according to the imperfect light which they thus possessed. The Epistle to the Hebrews states this. (Heb. i., 1), *God, who at sundry times and in divers manners spake in times past by the prophets, hath in these last days spoken to us by his Son ;* and then goes on to explain the superiority of Christ, in nature and office, to the ministers of the Old Testament. Again, St. Paul says (Rom. ii., 12), *As many as have sinned without law (the law of Moses), shall also perish without law ; and as many as have sinned in the law, shall be judged by the law.* So in St. John (xv., 22), Christ says, *If I had not come and spoken to them they had not had sin, but now have they no excuse (ἡ ἀπολογία) for their sin.*

725. When the Truth of the Gospel is presented to men, those who do not accept it are charged

with blindness and hardness of heart. Thus (Mark vi., 52), *They considered not the miracle of the loaves, for their heart was hardened.* And when the Disciples referred his warnings to earthly matters, Christ said (Mark viii., 17), *Perceive ye not, neither understand? Have ye your heart yet hardened? Having eyes, see ye not? and having ears, hear ye not?* So (Mark iii., 5). And (John xii., 40), the expressions of Isaiah are applied to the Jews who had seen the miracles of Christ, and did not believe: *He hath blinded their eyes, and hardened their heart: that they should not see with their eyes, nor understand with their heart, and be converted.* So (Acts xix., 9), *Divers were hardened, and believed not.* And Christ (Mark xvi., 14) *appeared unto the eleven as they sat at meat, and upbraided them with their unbelief, and hardness of heart, because they believed not them which had seen him after he was risen.* And to the two disciples on the way to Emmaus he said (Luke xxiv., 25), *O fools, and slow of heart to believe all that the prophets have spoken!*

726. As in these and many other passages, blame is imputed to men when they reject revealed truth, so is it represented as a merit to believe and accept such truth. Thus Acts xvii., 11. The Berean Jews were *more noble* (εὐγενέστεροι, of a better disposition) *than those in Thessalonica, in that they received the word with all readiness of mind, and searched the Scriptures daily, whether these things were so.* And this is implied in all the commendation bestowed upon *faith*; which, although it be not merely a speculative belief, includes belief of Christian truths. And as unbelief is threatened with punishment (Matth. xi., 21; Luke x., 13), *Woe unto thee, Chorazin! woe unto thee, Bethsaida! so is belief represented as the occasion of God's favour.* (John i., 12), *As many as received him, to them gave*



*he power to become the sons of God, even to them that believe on his name.*

727. We have spoken (723) of the Progress of Science, as illustrating the manner in which errors which are excusable at an earlier time, are inexcusable at a later period, when the truth has been more fully discovered and promulgated.

There is one material difference, however, between the course of truth and knowledge, in Science and in Religion. In the knowledge of scientific truth, men go on from step to step, at every step advancing to the knowledge of a new truth; which new truth includes all that was true in previous knowledge, while it adds to it something more. Thus, the cycles and epicycles in which, according to the Ptolemaic system of astronomy, the planets moved round the earth, explained their motions, for the most part. The step made by Copernicus consisted in adopting this explanation; adding to it the new truth, that the sun, not the earth, was the centre of the motions. Kepler still retained the same explanation of the motions; but added again the new truth, that the epicycloid motion, duly corrected, might be conceived as elliptical motion. Such is ever the progress of human knowledge, retaining old truths, in spite of their mixture with error; and correcting them, where they are erroneous, by means of new truths. The last true doctrine contains all the previous true doctrines in the most general form; and contains, moreover, the new general truth.

But in Revealed Truth, the case is necessarily different from this. There the Revelation contains all the Truth; and to this Truth, succeeding thoughts of men cannot add, though they may develop and methodize it. The Doctrine, as revealed, contains all the true Doctrines which can be unfolded out of it. The first form of the Truth is, here, the most comprehensive and fundamental. In

Science, earlier views, so far as they are true, are summed up in the latest Discovery. In Religion, later views are true, so far as they are derived from the original Revelation. If Christianity were a Science, additions might be made to it from time to time; but as it is a Revelation, we can only have, from time to time, new expressions, arrangements, and combinations, of the same original fundamental Truths.

728. We may, however, observe further, that the progress of moral and intellectual culture among men, and the changes which philosophical opinions undergo, may make it necessary, for the sake of a due apprehension of the truth, and for the sake of a mutual understanding among men, that the original and fundamental Truths of the Christian religion should be expressed in various manners, on various occasions, and at various times. Abstract terms, and especially those which contain a reference to the powers of the mind, the operations of thought, and the most general relations of things, derive their significance and force, in a great measure, from the prevalent systems of philosophy. Such terms are necessarily employed, in expressing the relation of man to God, and the facts which affect the religious condition of the human soul. Hence, it may be necessary to modify the expression of religious belief, in consequence of revolutions in philosophy, or other changes in the prevalent habits of thought. Statements, which, at one time, did not convey an erroneous meaning, may come to be assertions of error; if the significations of the terms which they involve be, in the course of years, so limited or enlarged, so defined and distinguished, that the statements declare more or less than the truth. In such cases the *Creed*, or formal Declaration of Religious Belief, may need to have some Articles added or altered. But it is to be remarked, that such addi-

tional Articles are not additions to the matter, but corrections of the form, of the Creed. They do not denote the acceptance of Truths hitherto unknown, but the exclusion of Errours hitherto unnoticed. The Truths of Revelation are always the same ; but the means which man possesses, to express them without Errour, vary, as the habits of thought and of language vary ; and it has been possible, and being possible, it has been the Duty of the Church of Christ to make, from time to time, such alterations in her Creeds, that they might express, with more complete exclusion of Errour, the Truth as revealed by God to man.

729. Our Religious Belief is a part of that Religious Culture, of which we have spoken (565). A true apprehension of our relation to God, and of the conditions of his dealings with us, is the foundation and source of the Affections of Christian Piety, which we have already noticed.

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## CHAPTER XIV.

### CHRISTIAN EDIFICATION.

730. As it is our business to seek a knowledge of Christian Truth, and to aim at Christian Dispositions for ourselves ; so is it our Duty, also, to endeavour to impart these benefits to other persons. As it is (346) a Moral Duty to promote the Moral Progress of other men, as well as our own ; so is it a Christian duty to promote the Christian Progress of other men. Christian Love is a stronger motive for doing this than any other kind of benevolence can be ; and the Christian Progress of the Soul is a so much higher object to aim at, than mere moral

progress of the Mind, that it may very fitly excite men to more strenuous exertions. The Christian, who has made any progress in Christian knowledge and Christian dispositions, cannot help wishing that all other men should be as he is. He has received a Gospel of Good Tidings, which he must needs impart to all whom he loves; and this very Gospel has taught him to love all men. He would, if possible, communicate to every human creature the Call to Repentance, the Offer of Pardon, the Light, the Purification, the Hope, and the Joy, which he has, in a greater or less degree, found.

731. This Christian desire impels men to teach Christian truths and Christian precepts, to those who are under their more immediate influence; to their children, and their dependents. They bestow, on those who thus belong to them, *Christian Education*. They employ themselves in forming, in such persons, Christian Dispositions, and in unfolding their minds to the Truths of the Christian Revelation. But further; the Christian is naturally impelled by Christian love to endeavour to promote a Christian progress, not only in those whose Education in some measure especially belongs to him, but also in all whom he has any occasion of influencing; his neighbours, his fellow-citizens, the whole world, so far as his opportunities extend. He is bound to aim at the Christian improvement of those with whom he has intercourse; to teach them, if by position or gifts he be especially qualified as a Christian Teacher: above all, to avoid doing or saying anything which may interfere with their Christian progress.

This duty of mutual religious improvement and Christian culture is frequently enjoined in the Scripture. (Eph. vi., 4), Parents are directed to *bring up their children in the nurture and admonition of the Lord*. The Colossians are exhorted (Col. iii., 16), *Let the word of Christ dwell in you richly....teaching*

and admonishing one another. And Heb. iii., 13, *Exhort one another daily*; (x., 24), *Let us consider one another, to provoke unto love and good works*. Thus the Christians were to exhort each other to what was good; to admonish and warn them who were in danger of transgression; and if need were, to rebuke transgressors (1 Tim. v., 20).

732. The notion of Mutual Instruction in Religion so familiarly occurs in the writings of the Apostles, that the metaphor by which it is expressed no longer suggests the figure from which it was originally derived. A Christian's mind is *edified*, that is, literally, *built up*, by religious instruction: indeed the term *instruction* itself has, originally, nearly the same sense. Thus Acts xx., 32, *The word of his grace is able to build you up*. Col. ii., 7, *Walk ye in Christ, rooted and built up in him*. And in this sense, the term *Edification* (οικοδομη) is commonly used; as 1 Cor. xiv., 3, *He that prophesieth speaketh to edification*.\*

733. As a necessary requisite of their common and mutual culture, it is the duty of Christians to preserve, unimpaired and pure, the Truth originally revealed through Christ. (Jude 3), *It was needful for me to write unto you and exhort you that ye should earnestly contend for the faith which was once delivered to the saints*. St. Paul says to Timothy (2 Tim. i., 10), *Hold fast the form of sound words which thou hast heard of me, in faith and love, which is in Christ Jesus. That good thing which was committed unto thee keep by the Holy Ghost which dwelleth in us*. It

\* In other cases, however, the metaphor is differently applied, when mention is made of building up a Church, as a body of Christians; as Rom. xv., 20; and under this form of expression, the duty is often enjoined; as Eph. iv., 29, *Let no corrupt communication proceed out of your mouth, but that which is good to the use of edifying* (ἵνα οἰκοδομηῖτε ἑαυτοὺς). So Rom. xiv., 19; xv., 2. 1 Cor. xiv., 5. 1 Thess. v., 11.

is plain that the good thing thus committed to Christian ministers was Christian Truth. So St. Paul again (1 Tim. i., 11 and 18), *The glorious gospel of the blessed God which was committed to my trust.... This charge commit I unto thee, son Timothy.* And those who deviate from the truth of the Gospel, are spoken of with strong condemnation. Thus (Gal. i., 7), *There are some that trouble you, and would prevent the gospel of Christ. But though we, or an angel from heaven, preach any other gospel than that ye have received, let him be accursed :* which condemnation he instantly and emphatically repeats (ver 9). St. Peter says (2 Pet. ii., 1), *There shall be false teachers among you who shall privily bring in damnable heresies, even denying the Lord that bought them.* St. John (2 John 10), *If there come any man to you, and bring not this doctrine, receive him not in your house, neither bid him God speed.*

Thus, as unbelief and false doctrine are calamities to our own souls, and, in that sense at least, transgressions against ourselves; the promulgation of false doctrine, or of unbelief among others, are evil done to them, and violations of Christian Duty.

734. To this condemnation of religious unbelief and false doctrine, objections are sometimes urged of the following kind: That thus to declare one selected form of Opinion to be the only form which men can blamelessly entertain, is hurtful to the Progress of Truth; for the Progress of Truth among men requires free Inquiry and Freedom of Opinion: that free Inquiry is a Right, and the Love of Truth a Duty; both of which are infringed by proscribing certain condemned Opinions, since these may be the very Opinions to which the Love of Truth and the pursuit of Inquiry lead some men: that our supposition that *our* Opinions are true, and the contrary ones false, is mere assumption, which may with equal Right be made on the other side:

and that a condemnation of men, founded upon this assumption, is, therefore, unjust and unreasonable.

735. In reply we say, that, in other subjects than Religion, men do not proceed on the supposition that persons holding two opposite Opinions have each an equal Right to assume his Doctrine to be the true one: that on the contrary, we go upon the supposition that there is Truth and Falsehood, as well as mere Opinion; and we condemn the man who holds false opinions, when he has had the means of knowing the Truth. If a geographer reasons on the hypothesis that the earth is flat, not round; if a physician gives his direction on the supposition that a well-known poisonous drug is harmless: we do not say that he is blameless, and has a Right to his Opinion. We think him foolish and irrational; and if his error lead to mischief, we blame him as criminal. In like manner we go, and must go, upon the supposition that, in Morality and Religion, as well as Geography and Physiology, there is a Truth which it is the Duty of every one to hold; or, at least, without which his Progress towards Truth is altogether incomplete. If a man stop short of this point, or turn aside in any other direction, he must be in the wrong. Whether we call him culpable or unhappy, he is at least not moral and religious. And when he attempts to draw other people after him in his error, we cannot abstain from condemning him.

736. The belief in the coincidence of Virtue with Happiness, in the long run, depends upon the belief in God's government of the world; and thus, this belief is the foundation of Morality. Without this belief, the Conceptions of Duty, and of right and wrong, have no reality and no force. When we say that the Love of Truth is a duty, we cannot so understand the word Truth, that there shall be no such thing as Duty. If the Love of Truth be a Duty, Truth must include the foundation of the reality of

Duty ; which is, as we have said, the belief in God. And so, of the Right of free Inquiry ; there cannot be a Right of free Inquiry in such a sense, that Inquiry may lead to the result that nothing is right or wrong. If there be a Right of Inquiry, there must be some real basis of Rights ; which, without the belief in God, there cannot be.

737. The general judgment of mankind has given its sanction to these views. As we have already said (405), men do not consider those persons to be blameless who hold immoral Principles : and in like manner, they have always bestowed strong condemnation on those persons who have rejected or opposed that belief in God, which, in common apprehension, as in reality, is the necessary basis of Morality. Atheists have always been odious. The universal voice of human nature has pronounced condemnation on those who say, "There is no God." The Right and the Duty of Inquiry have always been asserted in vain, when Inquiry has led to this result. Men have constantly, and everywhere, felt that the Right and Duty of Inquiry could not be things more certain, than the being of God, who made them able to inquire and to conceive Duty. And the Atheist has been regarded as a man who broke a universal and fundamental tie, by which all mankind are held together ; and hence has been looked upon as a common enemy.

738. The mere belief in God, on grounds of Reason, is too vague and incomplete a doctrine to satisfy men. If there be a Creator and Moral Governor of the world, there must be also a Providential Government of the world. The History of Man must bear traces of the Mind of God. The first origin of man on earth, for instance, cannot be an event in the common course of things ; and we can easily conceive this origin of man to have been accompanied by something of the nature of a Reve-



lation. Men have everywhere felt, thoughtful men still feel, the need of something more than our natural powers afford, to purify and elevate their minds. To carry on the Moral Progress of man, the Ancient World needed to be transformed into the Modern World; but this could not take place by natural means. The Christian sees the only consistent and possible solution of these difficulties, in the Christian Revelation; according to which the coming of Christ upon earth is the Central Point in the Providential History of the world; giving definiteness to the relations of God and man; and supplying the needs of man's spiritual nature. Thus, he sees, in Revealed Religion, the necessary completion of Natural Religion; and is compelled to look upon the infidel, who does not believe in Christ, as believing in God to no purpose. The Christian judges, as we have already said, that such unbelief is either a violation of Duty, or a calamity which produces the same effect upon the person's mind as a transgression of Duty; since, without a belief in Christ, a man cannot have the benefits which Christ's coming brings to believers. And the promulgation of such infidel doctrines, he deems to be a heavy calamity to those who fall under such influence. The tie of a common belief in God is, among Christians, identified with the tie of a common belief in Christ; and hence, he who denies the truth of the Christian Revelation, is necessarily looked upon in nearly the same light as the Atheist.

739. It by no means follows, that we check or limit the Progress of Speculative Truth among men, when we condemn the denial of certain fundamental Principles which are assumed in the very idea of Speculative Truth. Such Principles are these:— that there is a difference of true and false; a distinction of right and wrong; that there is a God who gives reality to that distinction; that there is a duty of unlimited progress towards what is right. These

doctrines being assumed as steadfast and unquestionable, there is still abundant room for Inquiry ; and for various views to which Inquiry may lead. The wide space between General Principles and Special Instances, is occupied by a region of obscurity and confusion, in which we need all the clearness which we can give to our intermediate chain of conceptions, in order that our reasonings may be coherent and conclusive. Different minds may form such chains of conceptions, various, yet each consistent with itself ; and depending for their variety, only upon different kinds of intellect and of intellectual culture. It is our business to seek to establish such a clear and firm connexion among our thoughts. It is a part of the Duty of Intellectual Culture, of which we formerly spoke (342). The pursuit of speculative Truth, under the conditions already stated, and in proportion to our powers and habits of speculation, is a part of the life of a good man. He must think, as well as feel. As we have said (338 and 446), it is his duty to act and to think rationally ; and what is rational thought, he can know only, by carefully unfolding his Reason. So far as he really arrives at Speculative Truth, he will see more distinctly the Supreme Law of his Being, and will have increased means of conforming to it. It is his business constantly to aim at Truth ; and his Progress towards Truth, like his Progress towards Moral Perfection, can never rightly have an end. Hence, if any one were to argue that the opinions to which he had been led must be blameless, since he had done all he could to arrive at truth ; we should reply, that a man has never done *all he can* to arrive at Truth ; that every man should go on to the end of his life, constantly endeavouring to obtain a clearer and clearer view of the Truths, on which his Duty depends ; and that his renouncing this task, and making up his mind that he has done all which he needs to do, is itself a Transgression

of Duty, which prevents his Error and Ignorance from being blameless.

740. The Inquiry after the Truths which are connected with Morality and Religion, must be conducted in a *serious* and *earnest* disposition. To bring to the task any spirit of levity, or of ready-made contempt for the doctrines whose Truth we have to examine, is to trifle with or pervert our Duty. Such a spirit makes our inquiry worthless; and may make us both mischievous and culpable in the influence which we exert upon others. Levity or Ridicule, which has any tinge of implety, is a most grave offence; implying the absence of all due appreciation of the importance of religion: and such behaviour is the more plainly culpable, inasmuch as the spirit of Levity and Ridicule is inconsistent with calm and candid Inquiry. As we have said (247), Ridicule implies that the object ridiculed is compared with some standard, and is deemed so glaringly below the standard, as to make comparison absurd. To ridicule Religious Opinions, is to take for granted that they are unworthy of serious examination. To ridicule Religious Opinions, does not prove, but assumes their falsity. Ridicule is no test, either of truth, or falsehood, in the opinion ridiculed; but it is a test of assumption, combined with levity, in the person who so uses it. Yet such assumption often carries away with it by sympathy the weaker kind of intellects, and puts them out of the frame of mind in which they can attend to serious inquiry. Ridicule often influences men more than argument; and is more difficult to reply to; because the replicant has first to overcome the feeling of Contempt, in the expression of which the force of Ridicule dwells. But this feeling of Contempt is not really any advance towards a discernment of Truth. It may be assumed on the side of Falsehood as well as of Truth. It may be communicated by sympathy, by the play of fancy,

the ambiguities of language, and the fallacies of shallow thinking in favour of what is false, as well as of what is true. Hence, even those Moralists who allow an unlimited Freedom to the Inquiry after speculative Truth, still condemn the use of Ridicule with regard to religious Doctrines. To employ Jests and Grotesque images, Sarcasms and Sneers, on such subjects, is to intoxicate men, while we are leading them among the most difficult and dangerous paths.

741. As implying a degree of Levity, the familiar mention of the deeper matters which belong to Religion is not without evil. For the deeper matters of Religion cannot be properly apprehended and meditated upon, without a degree of reflection and abstraction which is inconsistent with familiar mention of them. This is especially the case with the Idea of God. The thought of God, the Author of Duty, the End of Hope, the ever-guiding Intelligence of the world, the ever-present Witness of our Thoughts, our Holy Lawgiver, our Righteous Judge ; cannot fitly be called up in our minds, without being detained a moment, as the object of Reverence. To turn our thoughts towards God, is almost to address ourselves to him ; and we are not thoughtlessly to use words which may make this demand upon us.

742. Hence a good man will employ the Name of God cautiously and sparingly in his speech ; and will never introduce it on any slight occasion, or in any trifling spirit. Still less will he employ it as an indication of some confused vehemence or reckless fierceness in his thoughts ; as is done in common *Profane Swearing*. Such are the dictates of Natural Piety. They are confirmed by being enjoined by God himself, in one of the Ten Commandments given to the Israelites. *Thou shalt not take the Name of the Lord thy God in vain, for the Lord will not hold him*

*guiltless that taketh his Name in vain.* And this is further indicated in the teaching of Christ (Matth. v., 35). For the Jews had apparently applied the commandment to the name *JEHOVAH* only: but Christ extends it to every expression, in which the thought of God is virtually referred to. *I say unto you, Swear not at all; neither by heaven, for it is God's throne; nor by the earth, for it is his footstool; neither by Jerusalem, for it is the city of the Great King.*

743. All the Duties of which we have been speaking may be included in the term *Christian Edification*, of which we have already spoken. But it is the Christian's duty to edify or communicate religious instruction to those around him, in a larger sense. The body of Christians who are in the world at every period, have it for their business to diffuse, to the whole world, the knowledge and the spirit of Christ; as the first Disciples, in their time, had this for their business. The true Disciples of Christ are always a *Church*, an *Ecclesia*, a Body called out of the great body of the world; not only to be themselves brought to God, but to bring all men to God. They are always the Salt of the earth; the element by which it is to be preserved from corruption. Every Christian is bound to labour to make other men truly Christians, as far as his influence extends:—first, as we have said, his family and neighbours; next, his nation; and then the whole of mankind—the whole Human Family of his Brethren. Every Christian, and every Community of Christians, so far as they possess this Christian spirit, will be led to look upon themselves as Christian *Missionaries*, whose business it is to impart to all men Religious Truth.

## CHAPTER XV.

## CHRISTIAN ORDINANCES IN GENERAL.

744. WE have already (591) spoken of Christian Ordinances ; namely, certain habitual formal and social acts by which members of the Church acquire and express their Union with the Church, the Blessings and Privileges which this union produces, and the Emotions and Affections to which their Christian condition gives rise. As such Ordinances, we have mentioned *Baptism, the Lord's Supper, Prayer and Praise, Profession of Faith and Preaching*. These Ordinances involve the appointment of sacred times, as *the Lord's Day*, and other Christian Festivals, and of sacred *Places and Forms*. Besides these Ordinances, which belong to the universal course of Christian life, Christian doctrines give to Marriage, and to Death, a religious aspect which is expressed by Religious Acts accompanying each event ; and thus the Religious Solemnization of *Marriages and Funerals* may also be looked upon as Christian Ordinances. *Oaths* are necessarily, as we have seen, Religious Acts ; and therefore, in a Christian community, are a Christian Ordinance. Finally, the appointment of an *Order of men* for the purposes of Religious Ministration and Religious Teaching, and the mode of *Admission* into this Order, are also Christian Ordinances.

745. The use of Christian Ordinances is a Duty binding upon every Christian ; for they are the means of a Christian's finding in Religion that support which Morality needs, and those Blessings and Privileges which Christianity offers to Christians.

746. Hence it is proper to show separately, with regard to the Ordinances which have been mentioned, that they are Christian Ordinances, in the

form in which they are appointed to be observed in this country. It belongs to the Religious Teacher to insist, in a more especial manner, upon the *Spiritual Efficacy* (592) of these Ordinances. We consider them as a portion of the Rule of Christian Duty, in which they are necessarily included.

747. The Supreme Rule of Christian Duty, with regard to Ordinances, is the same as with regard to everything else:—the Will of God. This Will, however made known to Christians, is, as we have said (654), the Christian Rule of Conscience. But the Rules of Christian Duty, with regard to Ordinances, cannot be collected from Scripture in the same manner as the Precepts of Christian Morality: for Rules for Christian Ordinances, as to their Form, are not given in the Scriptures. Hence we must collect the Will of God respecting Ordinances from other sources.

Of such sources, there are four principal ones, which we shall term; *Natural Piety*; *Early Revelation*; *Apostolic Institution*; and *Catholic Tradition*.

748. We have seen (674) that Public Worship of the Deity is pointed out as a Duty by the Dictates of *Natural Piety*: and that Public Worship involves the establishment of Sacred Times, Sacred Places, and Religious Ceremonies. Hence it has been, by some Christian writers, reckoned as among the dictates of Natural Piety, that God should be worshipped in a special and marked manner, at the recurrence of certain fixed intervals of time; as, every morning, every seventh day, every tenth day, every month. Certain it is, that such an usage has prevailed very extensively, we might almost say universally, among nations in all ages. So has also the celebration of annual festivals, having a reference to the annual phenomena of the seasons, or to some historical event. With regard to some of these observ-

ances, as the cycle of seven days, they are found to be so widely diffused in the remotest antiquity, that some persons have judged them to be traces of some Revelation made by God to man, in the early period of the world's history ; and before that dispersion of the human race by which they were separated into nations.

749. But of *Revelations* previous to the coming of Christ, we have no authoritative account except the Old Testament. The Law of Moses, delivered in the Old Testament, contains a very large and detailed body of Precepts, concerning Religious Observances ; concerning Ceremonies and Sacrifices, Sacred Places and Times. These were delivered to the Jews ; and were observed by the Jews, with more or less modification, till the coming of Christ. It is proper to consider how far these Precepts may be regarded as guides for the Christian Church, in the regulation of its ordinances.

750. The Old Testament has a high claim upon the reverence of Christians. The Revelation of Christ is founded upon, and is the sequel to, the Revelations of which the Books of the Old Testament contain the record. Christ and his Apostles, in their teaching, recognize and confirm the authority of Moses and the prophets ; and the precepts of Christian morality are often delivered in the way of a commentary upon the Law of Moses. The Jewish prophets predicted the coming of Christ, the promised Messiah ; and by their predictions prepared men for the reception of his teaching. The connexion between the Jewish Laws and the Christian Doctrines was so close, that at first, a great number of the Jewish Christians held the whole Law of Moses to be binding on Christians, even as to ceremonies ; for instance, circumcision, meats, sabbath-days, new moons, and the like. This opinion was rejected by the teachers of genuine Christianity.



St. Paul argues earnestly against it. The main tendency of his Epistle to the Galatians, for instance, is to prove (Gal. ii., 16), *That a man is not justified by the works of the Law of Moses, but by the faith of Jesus Christ.* This he urges especially against the necessity of circumcision. But he applies it also to ceremonies in general. He tells the Colossians (ii., 14), that Christ *blotted out the handwriting of ordinances* ; and in connexion with this, exhorts them : *Let no man therefore judge you in meat or in drink, or in respect of a holy-day, or of the new moon, or of the sabbath-days, which are a shadow of things to come, but the body is of Christ.* Hence it is plain that even the Jews who became Christians, were not bound by the Mosaic ordinances : other nations were never bound by them, either before or after the coming of Christ.

751. But through the ordinances of Moses be not binding on us ; yet, inasmuch as they were part of a divine revelation, they may serve, in some degree, as a guide to Christians ; since they truly exhibit modes in which God, the Giver alike of the Mosaic and of the Christian dispensation, was willing to be worshipped. And this is especially applicable, in cases which the reason for the ordinance applies alike to Jews and Christians ; as in the fixation of times and places of religious assemblies. To which we may add, that the existence of the Jewish Observances, in the time of Christ and the Apostles, exercised an influence in the determination of the Christian Ordinances, as we see in the cases of the Lord's day, Easter, and Whitsuntide.

752. In some instances, the Jewish ordinances were, as we learn from Christ and his Apostles, intended by God to prefigure the events of the Christian Revelation ; and therefore ceased, by the reason of the case, when those events had occurred. This is implied by what is said of Jewish ordinances

(Col. ii., 17), *that they are a shadow of things to come ; but the substance is of Christ.* So also Heb. x., 1. In this Epistle to the Hebrews, we are taught that Christ was prefigured, both by the Jewish High priest, and by the sacrifices which the High priest offered ; and especially, by the sacrifice of the Paschal Lamb (1 Cor. v., 7) : *Christ our Passover is sacrificed for us.*

753. This sacrifice, in the person of Jesus Christ, was offered at the time of the Jewish *Passover* ; and hence, the annual commemoration of the death of Christ has continued the Paschal feast from the Jewish to the Christian Church ; and it has from the first been observed by Christians. A consequence of this connexion of the Christian *Easter* with the Jewish Pascha is, that the time of Easter is made to depend upon the time of full moon, as that of the Jewish festival did ; instead of being kept on a fixed day in the year, like other festivals of the Christian Church.

754. The *Pentecost*, another of the three great annual festivals of the Jews, the fiftieth day after the Passover, was also rendered memorable among Christians. On that day the Holy Ghost, promised by Jesus Christ to his disciples, as the Comforter who should come to them after his departure, descended in an especial manner upon them, when they were assembled together ; and gave them the endowments which enabled them to diffuse the belief in Christ throughout the world. Hence this Jewish festival also is adopted into the Christian church ; it bears the name of *Whitsuntide*.

755. The relation of the *Lord's Day* of Christians to the sabbath of the Jews will require a special consideration. Besides the Lord's day, there are other Christian Ordinances which prevail among Christians, and of which we shall say a few words ; namely, the Sacredness of Places, Forms of Wor-

ship, Baptism, the Lord's Supper, Marriage, Funeral Rites, Oaths, the Character and Appointment of Ministers of Religion.

756. As the State, the Jural Community, is the proper Authority for regulating the forms of Civil Institutions, so the Church, the Religious Community, is the proper Authority for regulating the forms of Religious Ordinances. As we must find the determination of what is right, as to political institutions, in the history of the State, we must find the determination of what is right as to Christian Ordinances, in the history of the Christian Church. As, in the State, we refer to a certain fundamental and original scheme of our institutions, the Constitution, on which we look with reverence, and by whose spirit we seek to be guided; so in the Church, we refer to a certain fundamental and original scheme of ordinances, *Apostolic Institutions*; to which we look with reverence, and by which we wish to be guided, so far as the spirit of the times and the altered forms of life will allow us.

The Evidence of Apostolic Institutions must be found in the New Testament; and this Evidence, so far as we find it, is a most important guide for the forms of Christian Ordinances.

757. But there is a very remarkable distinction to be noticed between Civil Institutions and Christian Ordinances, as to the Authority by which their form is determined. States are many; and each State has its separate Authority, for determining its own institutions; but the Church, in some senses at least, is one; it is a single body, of which Christ is the Head. There is a Universal or Catholic Church, composed of the true Christians of all lands. Their separation of nationality is melted away by their spiritual union. There are Ordinances which belong to them in common, in virtue of this union. And these Ordinances, in spite of the

separate channels in which their national histories have run, have been derived to them all, from the primitive times of the Christian Church, by *Catholic Tradition*, or Universal Christian Usage.

What Ordinances can, and what cannot, be shown to be derived from Apostolical Institution by Catholic Tradition, is a question which has been disputed among Christians; but all have agreed that those Ordinances which are supported by Apostolical Institution and Catholic Tradition, are Ordinances established by the Authority of the Christian Church, and therefore Duties for all Christian men.

758. There are, in every community of Christians, forms and details of Ordinances which are not regulated by Catholic and Apostolic Usage, but by some special authority belonging to the community. Every Christian nation has such an authority belonging to it; and this Authority is the *National Church*.

We must now consider certain Ordinances specially.

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## CHAPTER XVI.

### THE LORD'S DAY.

759. THE observation of the First Day of the Week, as a day especially appropriated to worship and religious employments, is a Christian Ordinance which is supported by all the four grounds of which we have spoken; Natural Piety, Early Revelation, Apostolic Institution, and Catholic Usage. As we have already stated, it has been recognized as one of the dictates of Natural Piety that there should be stated times for the public worship of God, and this

has been manifested in the practice of all nations. The portion of time set apart in this manner, in the revelation of God's will made to the Jews, was every seventh day; the Seventh Day being the Sabbath, or day of rest. In this case, the rule, by which revelation has fixed, what natural piety leaves undetermined, has a special ground of authority for us, in that the reason given for the hebdomadal cycle is valid for all mankind, as well as for the Jews: namely, that God created the world in six days, and rested on the seventh day. The first Christians were in the practice of assembling for religious purposes, on the first day of the week, the day of Christ's resurrection. We have various notices of assemblies of the disciples on that day; (John xx., 19. Acts ii., 1; xx., 7. 1 Cor. xvi., 2). The day was called the Lord's Day; thus (Rev. i., 10), *I was in the Spirit on the Lord's day* (ἐν τῇ κυριακῇ ἡμέρᾳ). The Lord's Day gradually succeeded to the sacredness which the Jewish Sabbath had before possessed. When we pass from the New Testament to succeeding Christian writers, we find distinct notices of this universal Christian usage. Thus Justin Martyr, in the Second Century (Apol. ii., p. 98), *On the day which is called Sunday* (τῇ τοῦ ἡλίου ἀνατολῆς ἡμέρᾳ) *there is an assembly of those who abide in the fields or in the city, and the narratives of the Apostles are read, and the writings of the prophets; and he states, as the reason of this observance, that they thus celebrate the day on which God divided the light from the darkness, and Christ rose from the dead.* Tertullian recommends the observance of the day in times of persecution, *after the manner of the Apostles, who were protected by their faith.* From this period, there is no difficulty in tracing the Observance of the Lord's day, as a Catholic usage of the Christian Church.

700. The Jewish Sabbath was an ordinance of Divine Authority, being appointed in the Fourth

of the Ten Commandments. Some Christian writers have identified the Lord's Day with the Jewish Sabbath ; and, asserting the Fourth Commandment to be binding on Christians, have claimed Divine authority for the Christian Sabbath ; while other writers, denying that the Sabbath is thus commanded to Christians, have pronounced the Lord's Day a mere human law. We have seen that the Lord's Day is a Catholic and Apostolic Ordinance ; resting in part also upon the Jewish Revelation. Such an Ordinance may be conceived as having something intermediate between an entirely divine and a merely human authority. We shall therefore make a few remarks upon the two extreme opinions just stated.

761. We have already said that Christ and his Apostles taught, clearly and emphatically, that the Jewish ordinances were blotted out by the Christian revelation. We may add that *the Sabbath-days* are expressly mentioned (Col. ii., 16), in the enumeration of things in respect of which the Christians were not to be judged. Christ taught (Matth. xii., 1. Mark ii., 23. Luke vi., 1), *The Sabbath was made for man, and not man for the Sabbath ; and that the Son of man is Lord also of the Sabbath.* So (John v., 17) he claimed authority over the Sabbath, as being the Son of God. Some Christian writers think that when Christ (John v.) not only cured the sick man at the pool of Bethesda, on the Sabbath-day, but bade him carry his bed ; and when (John ix.) he not only restored the blind man to sight, but made clay on the Sabbath-day ; he purposely violated the traditional rules of the Jewish Sabbath, thus asserting his Divine authority. But however this be, he appears to have especially chosen the Sabbath, as the occasion through which he was to show that the Spirit of Ordinances is of more importance than the Letter ; and that he had the power to abolish mere Ordinances.

762. It is sometimes urged, that the Fourth of the Ten Commandments must be binding upon Christians because the other Nine are so. But to this we reply, that the Ten Commandments are not binding upon Christians because they are parts of the Law of Moses, but because they are parts of the Moral Law. *Thou shalt not steal ; thou shalt not kill ; thou shalt not commit adultery ;* are precepts which do not derive their authority from any special command, but from the moral nature which God has given to man. There are parts of the Ten Commandments, which are merely arbitrary, or local, or temporary, and apply only to the ancient Jews. Such is the reason given for the Fifth Command ; *that thy days may be long in the land which the Lord thy God shall give thee* ; such is the command of absolute abstinence from labour on the Sabbath ; such is the selection of the seventh day of the week for the day of rest, if that selection is really included in the Command.

763. I do not know that any Christian moralists hold that the Mosaical Form of the Sabbath Ordinance is binding upon Christians. From the first, and in all ages, the Lord's Day of the Christian Church has been observed in a manner quite different from the Sabbatical Observances of the Jews. The sum of the Mosaic command is Rest from labour ; and though Reading of the Scripture and Public Worship grew out of this, these are no part of the Law. The strictness with which this command of Rest was intended to be enforced, appears from the narration in the fifteenth chapter of the book of Numbers ; respecting the man who, while the Israelites were in the wilderness, was put to death for gathering sticks on the Sabbath-day. In the Christian observance of the Lord's Day, on the contrary, Assemblies for the purpose of Religious Instruction, Worship, Prayer, and Works of Benevolence, were, from the first, the main point. It is

very improbable that the first Christians, living constantly among the Jews, abstained from working and travelling on the first day of the week. We find (Acts xiii., 42 ; xvi., 13 ; xviii., 4) that St. Paul was in the habit of preaching on the seventh day of the week ; thus conforming his habits of religious teaching to those of the Jews.

764. But if the Sabbath be not, for us, an ordinance resting on Divine Command, it is also not properly described as an ordinance peculiarly intended for the Jews. It is not only a Christian Ordinance of Catholic and Apostolic Authority, but is also recommended to the Christian Church by the manner in which it is spoken of in the Old Testament. The reason given for the religious observance of one day in seven ; that God created the world in six days, and rested on the seventh day ; equally concerns all nations. The institution of the Sabbath by Divine Authority, is mentioned in connexion with the account of the Creation ; and long before the Jews as a separate people are spoken of. (Gen. ii., 3), *And God blessed the seventh day, and sanctified it ; because that in it he had rested from all his work which God created and made.* This notice must strongly recommend the religious observance of a seventh day to all, who receive the Old Testament as an authoritative account of God's revealed will. And this remark would be applicable, even if we were to allow, as Dr. Paley contends, that the Sabbath was not observed by the Patriarchs before the time of Moses, and was instituted for the first time in the wilderness. But in reality this opinion appears to be untenable, as we shall endeavour to show.

765. In the sixteenth chapter of Exodus, we have the account referred to by Paley, which appears to him to contain the actual institution of the Sabbath. He quotes verse 23, in which Moses says



to the rulers of Israel, who came and told him that the people gathered a double quantity of manna on the sixth day, *This is that which the Lord hath said, To-morrow is the rest of the holy Sabbath unto the Lord.* Now it cannot escape notice, that this is very far from having the appearance of a Command to observe a new Ordinance. It is not a command, but a reason for what had happened, given by referring, as it would seem, to something known. Already, in verse 5, an indication had been given of a difference established between the seventh day and other days. *The Lord said, It shall come to pass, that on the sixth day they shall prepare that which they bring in; and it shall be twice as much as they gather daily.* And the observation of this difference, we are told, verse 22, began with the common people, and was remarked by the rulers. *It came to pass that on the sixth day they gathered twice as much bread. . . And the rulers of the congregation came and told Moses.*

706. In the Mosais narrative itself, therefore, we seem to have evidence that the observance of the Sabbath by the Israelites in the wilderness, immediately after their departure from Egypt, was not a new thing. We have also, from other quarters, evidence strongly confirmatory of the opinion, that the observance of the seventh day must have been known to the Israelites in Egypt. A judicious ancient writer, Dio Cassius, in his History (xxxvii., 14), gives an account of the origin of the names of the days of the week. "The practice," he says, "of referring the days of the week to the seven stars called Planets, arose among the Egyptians, and has already spread through every people, though it is not long, so to say, since it began." He then proceeds to explain the reasons why the days are named respectively after the Sun, the Moon, Mars, Mercury, Jupiter, Venus, Saturn. And the remark,

that a week of seven days, named respectively after the Sun, Moon, and Planets, was very widely diffused in ancient times, is confirmed by what we know from other countries. The week was in use, not only among the Arabians and Assyrians, but also in India, and in China. The Week is, say astronomers (as Bailly and Laplace), the most ancient monument of astronomical knowledge.

767. An usage thus common to Egypt, India, and China, may have been derived from the Patriarchs of the Jewish race; but, at any rate, it must be supposed to have originated before the historical periods of those nations; and therefore, must have existed in Egypt at the time of the residence of the Israelites in that country. When they departed out of Egypt, and began to traverse the wilderness, it is possible that the common people, as a matter of habit, reckoned upon a rest on the seventh day, and acted accordingly. If a conjecture may be here allowed, we might perhaps say, that the rulers of the congregation, who knew that their nation was under a general obligation to reject the superstitions of the Egyptians, conceived that this was one of them, knowing the day of rest to be dedicated to one of their deities. They referred the matter to Moses, who informed them that the true God had appointed this rest, though observed also among idolators; and his injunctions, to retain the observance, were confirmed and sanctioned by the mode in which the supply of the food from heaven was dispensed to the people.

The rest of the seventh day, then, has an origin earlier than the laws delivered to the Israelites through Moses, and may, with some probability, be considered a remnant of an earlier Revelation.

768. The religious observance of the Lord's Day is, thus, not only of Catholic and Apostolic Authority, but is also recommended to us by its ori-

gin in an earlier Revelation. For the Form of such observance, the proper guide is, as we have said, the authority and usage of the Christian Church. Christians are bound to conform to Rules established by the Church, as they are bound to conform to the Laws of the State. In the one case, as in the other, the positive historical Definition of the general duty is binding upon the Conscience.

769. Hence, in points on which the evidence of Apostolic and Catholic usage is complete, a Christian, or a body of Christians, have no liberty to alter the mode of observance. As an example of this, it appears to be inconsistent with Christian duty for any community to alter the day of special religious observances, from the first, to any other day of the week ; as Calvin is said to have suggested to the city of Geneva to do, in order that they might show their Christian liberty with regard to ordinances. If to do this were within the limits of Christian liberty, it would likewise be so, to alter the period of the recurrence of the day, and to observe every fifth day ; or every tenth, as was appointed in France when Christianity was publicly rejected.

770. Christians are thus bound to observe the first day of the week ; and by the universal and original usage of the Church, to observe it as a day of religious assembly, of religious instruction by reading and meditation, of common worship and prayer, and of works of benevolence. It does not appear that the usage of the universal Church gives us any more precise directions for the observance of the day.

771. But the Universal Christian Church assumes special modifications in each country ; and the Regulations and Customs, by which such modifications are established, have also their authority within their proper circle, although this authority is not to be confounded with that of the Universal Church.

The Gallican church may regulate the ordinances which its own members are required to observe: the Anglican church may do the same.

To what degree of detail a National Church may fitly proceed in prescribing observances for the Sunday, we shall not here consider. Our business at present is with the duties of individuals with reference to such observances.

772. A duty of individuals is, to practise a ready and full conformity to all Rules that are established by lawful Authority. This applies to such observances as are appointed by the National Church; even when they cannot be shown to be enjoined by the authority of the Universal Church, but are established by the National Church for the sake of order and edification, in the exercise of its own judgment. Such are, in this country, the customs of abstaining from work, closing shops, and attending public worship. These are observances directed by our civil and ecclesiastical law, and therefore they are Duties. And so far as such Observances provide for the practices which have always prevailed as usages of the Universal Church (as assemblies for religious instruction, worship, and prayer, with a more special direction of the thoughts to religious concerns), the observances are Religious Duties; they are included in the duty of conforming to Rules, which have more than a mere human sanction.

773. But the whole course of the teaching of Jesus Christ, with respect to the Sabbath, shows us that we are not to look upon the external observances of the Sunday as the essential point. We learn from him, that works of benevolence were no violation of the Sabbath; still less, can such works be a violation of the Lord's day; of which, as we have said, rest is not a primary rule. And though at a period comparatively early, a law was made directing Christians to abstain from work on a Sunday; it was

very fitly made liable to exception in cases of necessity ; as, for instance, when harvest work needs to be done without loss of time.

774. Besides the observances which are directed by law, civil or ecclesiastical, national or catholic, there are, in every country, many Sunday observances governed by Usage ; such as in this country, the abstinence from games at other times not forbidden by law, and the abstinence from travelling, except in cases of necessity. These usages have grown up out of a regard for the religious authority of the day ; and out of opinions concerning the best means, consistent with the national character and habits, of expressing and fostering seriousness and devotion. To conform to them, will, in most cases, confirm seriousness and devotion in each person, by the sympathy of his fellow-citizens ; and to do so is therefore a duty of religious self-culture.

775. And even if there be any portion of those usages, in which we do not find this effect ; it will still be a duty to conform to them, in such a manner as not to disturb their edifying influence on others. St. Paul has urged the duty of conformity very strongly, both by his example and by his precepts. After explaining the Christian's freedom from Jewish formalities, he adds (1 Cor. viii., 9), *But take heed lest by any means this liberty of yours become a stumblingblock to them that are weak. For if any man see thee which hast knowledge do that which he deems irreligious, shall not the conscience of him that is weak be emboldened to do that which he himself deems irreligious? And through thy knowledge of the limited value of ordinances, shall the weak brother perish, for whom Christ died?* By no means let this be. It is a sin : and *When ye sin so against the brethren, and wound their weak consciences, ye sin against Christ.* Wherefore, he concludes, if any neglect of ordinances *make my brother to offend, I*

will obey them in the most rigorous manner, *lest I make my brother to offend.*

776. But while we thus avoid offending weak brethren, it is no part of our duty to perpetuate their weakness. On the contrary, it is our duty to avoid any share in proceedings which have this effect. Such a proceeding it would be, for instance, to exaggerate the authority of Observances, which we know to depend only upon our national usages, or upon the appointment of our National Church; speaking of them as if they were of Catholic and Apostolic, or even of Divine authority. And this consideration will lead us to abstain from censuring the Sunday customs of other countries, merely because they differ from our own; and the Sunday habits of our neighbours, merely because they are not directed by the maxims which we have adopted for ourselves. This appears to be one of the cases in which we may very properly apply the general Precept, To be very scrupulous in our own conduct, and very careful not to judge harshly of our neighbours.

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## CHAPTER XVII.

### CONSECRATED PLACES.

777. UNDER the Jewish dispensation, after the establishment of the Jews in Palestine, the Temple at Jerusalem was, in an especial manner, a Holy Place. Jesus Christ himself recognized the sacredness of this Temple, by driving out the traffickers, and quoting the Scripture, *My house shall be called the house of prayer.* But we have in this case, as in the case of the Sabbath, especial authority for the

abolition of the peculiar privileges possessed under the old law. Christ says to the woman of Samaria (John iv., 21): *The hour cometh when ye shall neither in this mountain nor yet at Samaria worship the Father . . . when the true worshippers shall worship the Father in spirit and in truth ; for the Father seeketh such to worship him. God is a Spirit ; and they that worship him, must worship him in spirit and in truth :* not in a belief of the essential importance of this or that place of worship. Yet a degree of sacredness was ascribed by the Christians to their places of meeting, even in the Apostles' time. St. Paul, expostulating with the Corinthians on certain unseemly practices which took place at their meetings, says (1 Cor. xi., 22), *Have ye not houses to eat and to drink in ? Or despise ye the Church of God ?* The Consecration of Christian Churches is historically known to have prevailed from the time of Constantine, and is supposed to have been practised earlier. Since this practice has existed, Churches, and other Consecrated Places, have been considered, in all Christian countries, as peculiarly fitted for worship and other religious offices.

778. Thus the Consecration of places rests, in some measure, upon the same grounds as the consecration of times ; Natural Piety, the Example of the Jewish Revelation, Catholic and Apostolic Usage. Though the grounds are not so plain and strong, in this instance, as in the case of the Lord's Day, they are sufficient to impress a reverence for sacred places upon all Christians ; especially, when these grounds are confirmed by the special views and rules of the particular Christian community in which we live. It is, therefore, a Duty, to give to consecrated places such reverence as Catholic and Apostolic usage assigns them ; and to conform to any other observances indicative of such reverence, which the National Church enjoins. It is our duty also to cherish, in

ourselves and in others, that seriousness and devotion which the consecration of places to religious uses is fitted to foster. It is, moreover, a duty to abstain from doing anything which may unnecessarily offend our scrupulous neighbours, on the one hand: and on the other, to abstain from urging, upon other men, any rules and any views with regard to such places, which have not Catholic and Apostolic authority. And finally, on such subjects, as was said in the former case, we ought to be careful, both to avoid all irreverence in ourselves, and to abstain from hastily ascribing irreverence to others; because their views and usages differ from our own.

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## CHAPTER XVIII.

### FORMS OF PRAYER.

779. PRAYERS to God, and other acts of devotion, proceeding from an assembly, have, in all ages and countries, been, in a considerable degree, expressed in stated Forms of words, determined by usage and authority. To a certain extent, indeed, this can hardly be otherwise. If any part of the devotional service be in verse, or accompanied by music, it must necessarily be previously arranged and prepared. And even when the devotional expressions are not so fettered in their rhythm, if they are not such as are known and expected by the congregation, they cannot generally carry with them that joint feeling and thought, which may prevail in religious assemblies when forms are used; and which may so operate as greatly to animate devotion.



780. In our worship, which ought to be reasonable as well as devout, we are led to use a fixed Form of prayers, thanksgivings, and praises, by such considerations as the following. Such a fixed Form prevents absurd, extravagant, and impious addresses to God, which the folly or enthusiasm of ministers uttering extemporaneous expressions might produce. It also prevents the confusion and indecision generated in the mind of the hearer during extemporary prayer. Prayer in which all can join, must be such as is foreseen, so that the mind can accompany it; not such as the mind must wait for till it is uttered, before it can judge whether its sympathy is to be given.

781. We have abundant examples of set forms of devotion, in the Old Testament. Thus (Numb. vi., 22), we have a form of blessing the people, appointed by God himself. *The Lord spake unto Moses, saying, Speak unto Aaron, and unto his sons, saying, On this wise ye shall bless the children of Israel, saying unto them ; The Lord bless thee and keep thee : The Lord make his face to shine upon thee, and be gracious unto thee : The Lord lift up his countenance upon thee, and give thee peace.* And Moses wrote a song (Deut. xxxi., 22), and taught it the children of Israel. This song is given in the thirty-second chapter of Deuteronomy. It was used in the Jewish services, and is said to be found also in several of the old liturgies of the Arabic Christians.\* The Psalms of David were constantly used in the devotional exercises of the Jews ; and these, along with set forms of benedictions, thanksgivings, and supplications, were used in their synagogues.

782. It has been doubted by some, whether set forms of prayer are not unsuited to the worship *in spirit and in truth* which is demanded of Christians.

\* Hooker, E. P. B. v., ch. 26. Note by Keble.

But the practice of the Church, from the time of Christ himself, assures us that there is no such unfitness. When Christ's disciples asked him (Luke xi., 1), *Teach us to pray, as John also taught his disciples* : he gave them a brief form of prayer, which has ever since been in constant and universal use among Christians : it is also given in Matthew (vi., 9). When our Saviour had eaten the passover with his disciples, and delivered the cup to them (Matth. xxvi., 30), *they sung a hymn* ; probably the hymn which was sung by the Jews on such occasions ; namely, Psalm cxii., and what follows. And in that night in the garden of Gethsemane, he prayed three times, *saying the same words* (Matth. xxvi., 44). It is true, that Christ gives to his disciples a precept (Matth. vi., 7), which our translators have rendered, *use not vain repetitions, as the heathen do*. But in the original word ( $\mu\eta\ \beta\alpha\tau\tau\omicron\lambda\omicron\gamma\eta\sigma\eta\tau\epsilon$ ,) there is nothing which specially implies *repetition*. The whole passage enjoins inward heartfelt prayer, instead of ostentatious worship of outward acts and words. Nor can it be doubted, that this inward worship is a Christian duty, both in private and in public devotions. To the same purpose is the passage in St. John (iv., 24) *God is a Spirit : and they that worship him must worship him in spirit and in truth*. Public, as well as private prayer, is constantly referred to in the history of the Apostles. Thus (Acts xii., 5), *Peter was kept in prison ; but prayer was made without ceasing of the church unto God for him*. And (Acts xvi., 16), *As we went to prayer . . . a certain damsel met us*. (So 1 Cor. vii., 5 ; 2 Cor. i., 11, and ix., 14 ; Eph. vi., 18 ; Phil. i., 19, and iv., 6 ; James v., 15 ; 1 Pet. iv., 7). In 1 Tim. ii., subjects of prayer are prescribed by the Apostle : *I exhort therefore, that, first of all, supplications, prayers, intercessions, and giving of thanks, be made for all men : for kings, and for all that are*

in authority, that we may lead a quiet and peaceable life in all godliness and honesty. For this is good and acceptable in the sight of God our Saviour . . . I will therefore that men pray everywhere, lifting up holy hands, without wrath and doubting; where the last words seem to refer to some disputes which had taken place on the subject. Thanksgiving is enjoined to be combined with prayer; thus (Phil. iv., 6), *By prayer and supplication with thanksgiving let your requests be made known unto God.* (So Col. ii., 7, and iv., 2; Eph. v., 20; Heb. xiii., 15). No also praises (Acts xvi., 25); *Paul and Silas in prison prayed and sung praises unto God.* (So Phil. i., 11; Heb. ii., 12, and xiii., 15; 1 Pet. iv., 11.)

783. Set forms of worship, or *Liturgies*, have been in use in the Christian Church from its origin, and have been transmitted, with various modifications, to the present times. Many of the expressions still used, were employed in very early ages of the Church; as the phrase, *Sursum corda*, *Lift up your hearts*, at the beginning of the service of the Communion: the questions asked of godfathers in the office of Baptism; the form of baptism, *in the Name of the Father, and of the Son, and of the Holy Ghost*, enjoined by Christ himself; the *Doxology*, borrowed from this, *Glorv be to the Father, and to the Son, and to the Holy Ghost*; with the response afterwards added, *As it was in the beginning, is now, and ever shall be, world without end. Amen.* The Collects, Epistles, and Gospel, for the various festivals of the year, have been in use in England from the Saxon times; and many of the prayers of the present English Liturgy, are borrowed from the ancient ritual of the Church.

784. At the time of the English Reformation, changes were made in the forms of public worship. The services were made more suitable to that inward prayer, which we have spoken of as a Chris-

tian duty, by presenting them to the worshipper in his own language, instead of the previous Latin Liturgy. All that was conceived to imply idolatry and false doctrine was removed. The Liturgy was put into a form in which a considerable portion of it was derived from the worship of the Catholic and Apostolic Church; while the remainder was composed with a careful regard to scripture precepts, and to the condition and feelings of English Christians, by the authority of the National Church.

Thus we are led to the conviction, that the use, both of a Liturgy in general, and of the English Liturgy in particular, is conformable to the condition of an English Christian. We see, also, that it is the duty of every Christian not to be satisfied with the mere form of the Liturgy; with lip-worship and knee-worship; but to accompany the prayers, thanksgivings, and praises, with inward movements of his heart.

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## CHAPTER XIX.

### BAPTISM.

785. BAPTISM is not only a Catholic and Apostolic usage, but is recommended to us by the dictates of natural piety, and the analogy of the Jewish Law. Not only Baptism, but Infant Baptism in particular, is agreeable to the dictates of natural piety and reason. Men, living together in a Religious Society, into which they have been initiated by an especial and solemn Rite, and which they consider as the source of highly precious privileges, cannot but wish that their children, even from their earliest infancy, should be members of the same Religious Society.

They are naturally led to admit them into the Religious Community, even before their religious feelings and convictions are unfolded ; trusting that their education, under the influence of those who have thus admitted them, will bring them into a condition of sympathy with the community, such as their initiation presumes, or anticipates.

786. In the Jewish Church, children were admitted into the Covenant of God with the Nation, by Circumcision, at eight days old. Circumcision was abolished by the coming of Christ ; and Baptism, the Rite of initiation into the New Covenant, superseded the former initiation. Baptism, that is, momentary immersion in water, had already been employed among the Jews, as a rite of purification : and hence, as a symbol of repentance ; as it was employed by John the Baptist. But the Baptism of John was professedly only preparatory to that of Jesus Christ (Matth. iii., 11. Mark i., 8). Jesus Christ baptised through his Apostles (John iv., 2) : and when he finally parted with his disciples (Matth. xxviii., 19), he commanded them to *baptize all nations*. We have abundant instances, in the history of the Acts of the Apostles, of the application of Baptism, as the Rite of initiation into the Christian Church. (Acts ii., 41 ; viii., 12 and 38 ; ix., 18 ; x., 48 ; xviii., 8 ; xix., 5 ; and numerous allusions in the Epistles. In several of these cases, we read of whole *households* being baptized ; as that of Lydia (Acts xvi., 15) ; of the jailer at Philippi (Acts xvi., 33) ; of Stephanas (1 Cor. i., 16). In these cases, probably children were baptized ; and we cannot doubt that, at any rate, the subordinate persons in the household were baptized on the responsibility of the principal convert.

787. In the Early Church, after the time of the Apostles, we have early indications of Infant Baptism having been practised, though it does not appear to have been universal. Justin Martyr, who lived

about forty years after the death of St. John, discourses "of Baptism being unto us instead of Circumcision." Irenæus, near forty years later, mentions *infants* as "by Christ *born again* unto God." This expression "born again," is used by Christian writers as equivalent to "baptized." Origen, about fifty years later still, speaks, in several places, of Infant Baptism, as a known and undoubted practice: and in one of these places, as having been according to a tradition ordered by the Apostles.\* Augustin very frequently speaks of Infant Baptism; and says that he never heard of any Christian, Catholic, or Sectary, who taught any other doctrine than that infants are to be baptized for pardon of sin. The first Antipædobaptist who formed a congregation was Peter Bruis, about A. D. 1100. Thus the main stream of Catholic and Apostolic authority is strongly in favour of the baptism of infants, as the token of their admission into the Church of Christ. Soon after their natural birth, they are admitted to a new birth, as children of God through Christ, and heirs of eternal life.

788. The practice of Infant Baptism having thus prevailed in the Church, from the earliest times; we are further to take into account the strong expression of Christ and his Apostles, respecting the necessity of baptism as the first step to the benefits of Christ's coming. Christ's last command was (Matth. xxviii., 19), *Go and teach all nations, baptizing them.* In the next Evangelist, the assertion is stronger (Mark xvi., 16), *He that believeth and is baptized shall be saved, and he that believeth not shall be damned.* In Ephes. iv., 5, Baptism is mentioned as one of the leading characters of the Church. *There is one body and one spirit...one hope of your calling; one Lord, one faith, one baptism.* And it is:

\* Wall, *Infant Baptism*, P. 1., chap v., § 3.

constantly referred to, as the necessary mode of introduction into the Christian Church (Acts ii., 28, &c.); and as a symbol and means of a death to sin and a new life to God (Rom. vi., 1). This introduction into the Christian Church, which was granted to the first Christians, in pursuance of their own belief, was, it appears, continued to their families, in the trust of the blessing of God; which, operating through a Christian education, was to prevent their becoming unfit members of the Church. Parents (Eph. vi., 4) are commanded to *bring up their children in the nurture and admonition of the Lord*, which appears as if the children were, from the first, contemplated as belonging to the Church. So Acts ii., 39, *The promise is unto you, and to your children.*

On these grounds we deem it a Christian Duty to accept Baptism in general, and Infant Baptism in particular, as a Catholic and Apostolic usage; and to promote its administration, under a due sense of its import, in all appropriate cases with which we have any concern.

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## CHAPTER XX.

### THE LORD'S SUPPER.

789. At the last Supper of Jesus Christ with his disciples, he instituted an ordinance, which, in an especial manner, expresses the relation of Christians to him. He delivered to them Bread and Wine, saying, *Take, eat; this is my body which is given for you. Drink ye all of this. This is my blood of the new testament which is shed for many for the remission of sins. Do this in remembrance of me* (Matth. xxvi., Mark xiv., Luke xxii., 1 Cor. xi). And we

read frequently in the history of the Apostles, of the celebration of this ordinance under the name of *breaking of bread* (Acts ii., 42 and 46 ; xx., 7).

790. This ordinance expresses the union of Christians with Christ, as the source of their spiritual life. St. Paul says (1 Cor. x., 16), *The cup of blessing which we bless, is it not the communion of the blood of Christ? The bread which we break, is it not the communion of the body of Christ?* (*κοινωνία*, participation). Hence this Ordinance is also called the *Communion* ; as well as the *Lord's Supper*, which name is given it 1 Cor. xi., 20 (*κυνάριον δείπνον*). In the account of the institution of the Lord's Supper, and in many of the references to it just quoted, mention is made of *giving of thanks* before breaking the bread and imparting the cup : and hence, the ordinance is termed the *Eucharist* (*εὐχαριστία*), or thanksgiving.

791. The Eucharist, Lord's Supper, or Communion, thus instituted by Christ, and continued by his Apostles, has been constantly celebrated in the Church, from that time to the present day. From the distinctness and solemnity of the institution of this Ordinance, and from the habitual celebration of it in the Apostolic times, as well as ever since, it is unnecessary for us to look for analogies to illustrate it in the Old Law. The circumstances of the command, and the doctrines combined with the ordinance, make it the duty of Christians to join in this ordinance. It has ever been held by all Christians the most solemn and formal Token and Act of their Participation in the Church of Christ.



## CHAPTER XXI.

## MARRIAGES OF CHRISTIANS.

792. MARRIAGE is a Civil Contract ; but there are strong reasons for making it also a religious union. It is in its complete form a union for the whole remaining period of life ; a participation of almost all interests, large and small, external and internal. The engagement includes, not only constant companionship, but steady affection. A contract so important and extensive, may naturally be confirmed by a religious sanction ; and engagements which concern the internal feelings, may naturally be supported by prayers and the hopes of a Divine blessing. In most cases, Marriage, in its highest form, has been accompanied by some Religious Rites ; and has had something of a religious character given it. In the Roman Law, marriage is not only *consortium omnis vite*, but *divini ac humani juris communicatio*. The laws of Moses concerning Marriage had led the Jews, in some cases, to treat its obligations lightly, as we have already seen (633). Christ taught, that in the eyes of God, it is a union of the most complete and essential kind, not arbitrarily to be disturbed. We have also seen that the teaching of St. Paul gives to Marriage a religious significance (632).

793. In like manner, the earliest successors of the Apostles also ascribe a sacred character to marriage ; speaking of the consent and participation of the Christian community as conditions of the blessedness of Christian Marriages. St. Ignatius writing to Polycarp says (ii., 5) : " It becomes those who marry, and those that are given in marriage, to take this yoke upon them, with the consent or direction of the Bishop ; that their marriage may be according

to the will of God, and not their own lusts ;” and Tertullian exclaims (ad Ux., II., 8), “ How shall I sufficiently set forth the happiness of the marriage which the Church brings about by her procurement ; which the Eucharist confirms ; which Angels report when done ; and the Father ratifies !” At that time, marriage by the law of the land was a Civil Contract ; but the Christian Teachers spoke of it as being, under due conditions, also a Divine Ordinance. At a later period, it was made law, throughout the Christian world, that marriages should be celebrated in no other way than by the sacerdotal blessing and prayers. This continued to be the case in England, till the usurpation of Cromwell ; when Marriage was declared to be merely a civil contract. At the restoration of Charles the Second, marriage was again regarded as a religious ordinance. By a recent act of Parliament, Marriages contracted with certain civil formalities, are valid. But the Church of England retains in use her Form of Solemnization of Matrimony ; and in this she declares that “ so many as are coupled together otherwise than God’s word doth allow, are not coupled together by God, neither is their matrimony lawful.”

794. Taking into consideration the declarations of Christ and his Apostles, respecting the sacredness of the institution of Marriage, it appears conformable to the duty of Christians to connect, with the contract, a religious sanction, and prayers for the Divine blessing. When the man and woman belong to a Church which has made matrimony a religious ordinance, there can be no doubt of the duty of celebrating the union in the ecclesiastical form. To do otherwise, would be, in significance, to deny the sacredness of Marriage ; and to reject the prospect of the Divine aid and blessing in the married condition. Where the two parties do not both belong to the same church, there is a difficulty

in determining what religious form of solemnization of the union ought to be adopted. To employ the forms belonging to both the churches, appears to be a course free from any valid objection ; for it cannot be supposed that one of the parties shuns, as impious, the religious service to which the other assents. If the incongruity of sentiment on religious subjects go so far as this, the marriage cannot take place between religious persons.

795. If it be asked, whether the Church sanctions the marriages of her children with aliens from the church, we may reply, that when they are once contracted she does not disallow them. St. Paul, as we have seen (635), gives his judgment (1 Cor. vii., 12) that the believing husband was not to put away the unbelieving wife ; the believing wife not to separate from the unbelieving husband ; and that the children were not "unclean" (*ἀκαθάρτα*). Thus, the Early Church did not annul or disallow mixed marriages ; nor did she solemnize them again, when the unbelieving party was converted.

796. Whether and under what circumstances the Church would give her sanction to the celebration of Mixed Marriages, is another question. A marriage with an unbeliever is forbidden by Apostolic authority (2 Cor. vi., 14), *Be ye not unequally yoked with unbelievers : for what fellowship hath righteousness with unrighteousness ? and what communion hath light with darkness ? and what concord hath Christ with Belial ? or what part hath he that believeth with an infidel ? ... Wherefore come out from among them, and be ye separate, saith the Lord. And again (1 Cor. vii., 23), If the husband be dead, the wife is at liberty to be married to whom she will ; only in the Lord.*

## CHAPTER XXII.

### FUNERAL RITES OF CHRISTIANS.

797. A FUNERAL is necessarily a religious service among a religious people. The change which takes place at death, is a transition from this life to a future life, which religion discloses to us ; and no occasion can be so appropriate, or so impressive, for the utterance of religious views and feelings, respecting the past, the present, and the future ; respecting man's life in general, and the condition of the dead man in particular. Accordingly, in all times and places, the funeral rites have been of a religious kind, the corpse, the bier, the grave-clothes, the grave, have been looked upon with awe.

798. The Christian religion did not remove this feeling : but by presenting to believers the resurrection of the dead, as a sure truth, constantly insisted upon, it removed much of the fear which belonged to such occasions. Its language was, *O death, where is thy sting ! O grave, where is thy victory !* It spoke of dying, as *falling asleep* ; of the dead, as *those who sleep*. On the tombs of the early Christians were represented, as symbols of their hopes, a Crown, a Phoenix, a Pelican, a Palm-tree, a Ship sailing out of the Harbour, or the like. It was at a much later period that Death began to be represented as a skeleton, or a meagre spectre ; a usage which is supposed to have arisen in part from the familiarity with bones which the use of Relics produced ; and in part from the ascetic spirit, which sought to subdue man's levity and love of enjoyment ; and aimed, not at evading, but at overcoming, the fear of death.

799. From the earliest times of the Church, the funeral of a Christian was, not a private, but a

public business ; the concern of the Christian community. Psalms and Hymns were sung containing such passages as these : (Ps. cxvi., 15), *Precious in the sight of the Lord is the death of his saints* : (ver. 7), *Return, O my soul, to thy rest, for the Lord hath dealt bountifully with thee.* (Prov. x., 7), *The memory of the just is blessed.* (Wisd. iii., 1), *The souls of the righteous are in the hand of God.* In later ages, other hymns were used ; as, for example, the noted one referring to the day of Judgment, which begins *Dies Iræ, dies illa Solvet sæctum in favillâ.* The greater part of the Burial Service of the English Church was in use in this country (in Latin), long before the Reformation.

800. Both the Jewish and the Roman customs directed that burial-places should be outside the city. (Luke vii. 12. John xi. 30). Cic. *de Leg.* ii. 23, quotes the law of the Twelve Tables : *Hominem mortuum in urbe ne sepelito neve urito.* The Christians gave to their burial-grounds the name of sleeping places, *Cemeteries* (*κοιμητήρια*) ; implying the hope of the resurrection. But they also buried their dead in the Church-yards ; and this was understood as a recognition of the *Communion of Saints* ; a community of interest, or sympathy, between dead and living believers ; the place where the departed were gathered together being thus brought near the place, where those who remained in life assembled for purposes of religion.

It is to be remarked that the purpose of the Christian funeral solemnities was, in early times, understood to be, not any advantage to the dead, but the edification of the living.

801. The due religious celebration of funeral solemnities being plainly capable of being made to further such purposes ; and being supported by the constant practice of Christian communities ; cannot be disregarded by a Christian in any instance which

belongs to his charge, without showing irreverence and levity in religious matters ; besides the blame of want of affection, and want of decency, which such a neglect naturally and deservedly incurs ; even without referring to religious considerations.

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## CHAPTER XXIII.

### OATHS OF CHRISTIANS.

802. WE have already spoken of Oaths in general, as a custom arising from the dictates of natural Piety ; we have now to speak of Christian Oaths as a Christian Ordinance. The Oaths commonly used in this country contain a reference to Christianity. The ancient form of the Oath was that the Juror touched the Gospels, and said, *Ita me Deus adjuvet et hæc Sancta Dei Evangelia* ; and the present form is, that in taking the Oath he holds the Gospel in his hand, and kisses the book after saying *So help me God*.

803. Christian Oaths have been taken in various forms. As to its general character, the Ordinance is supported by all the four grounds of Ordinances which we have enumerated ; Natural Piety, Early Revelation, Apostolic Practice, and Catholic Usage. But the two latter reasons have not given the Ordinance a new form and a new authority, to the same extent to which they have done in other Ordinances. Natural Piety has made the use of Oaths universal. In the Jewish Revelation we find them abundantly used, and approved and enjoined by God. Christ and his Apostles sanctioned the use of Oaths by their practice, but nowhere clearly enjoined them. There are even some passages in the

New Testament which have been understood as forbidding Oaths, but without good ground for such an interpretation. And the Universal Usage of Christian Communities, down to modern times, has given its authority to that interpretation of the Christian Precepts, which allows the use of Oaths on solemn occasions. We shall further illustrate some of these assertions.

804. Among the Israelites, the custom of swearing on solemn occasions existed, and is constantly taken for granted in the Old Testament. Oaths are there commanded as a part of the usual judicial procedure: Thus, Exod. xxii., 11, if a man deliver unto his neighbour an ox, &c., and it die, or be hurt, or driven away, no man seeing it, *Then shall an oath of the Lord be between them both.* And Psalm xv., 4, it is mentioned among the characters of a good man, that *he sweareth to his neighbour, and disappointeth him not, though it be to his own hindrance.* The denunciation of God's anger against false swearing, imply a sanction of swearing when truly employed; and we cannot suppose God to disapprove of the practice, when he is repeatedly represented as himself having sworn an oath to Abraham (Gen. xxii., 16), to David (Psalm lxxxix., 3), and to the people of Israel on various occasions (Isai. xlv., 23. Jerem. xlix., 13; li., 14. Amos vi., 8). The command, *Thou shalt not take the Name of the Lord thy God in vain,* implies that the name might be used on important and fit occasions; and the command appears fitted to keep up the solemn reverence for the thought of God, which an Oath implies.

805. When Jesus Christ taught the true import of the law of Moses, he noticed, among other things, the Jewish practice of Oaths. His injunctions, on this subject, were to the same effect as with regard to other parts of the Jewish usages. As with regard to retaliation, to divorce, to honouring of pa-

rents, to angry expressions, the Jewish teachers had made subtle distinctions as to what was and was not a transgression of the law, while they had neglected the spirit of the law ; so with regard to swearing. The trivial and thoughtless use of forms of swearing had become common, and the teachers had laid down rules as to which of these forms were binding, and which were not so. In this, as in the other cases, Christ rejects these distinctions, and says of such cases (Matth. v., 34), *I say unto you, Swear not at all.* That this is the import of his words, is plain from the course of teaching in this place. Christ begins by saying (v., 17), *Think not that I am come to destroy the law and the prophets ;* and then goes on to various points, with the expressions, *Ye have heard it hath been said by them of old time. . . But I say unto you* (v. 21, 22, 27, 28, 31, 32, 38, 39). And the same form he uses here : *Ye have heard that it hath been said* (v. 33), *Thou shalt not forswear thyself, but shalt perform unto the Lord thine oaths : but I say unto you, Swear not at all.* If, in this instance, he had forbidden judicial Oaths, it is plain that he would have been destroying the law and the prophets. For the Law enjoined judicial Oaths, as we have seen ; and if a hearer of Christ, thinking to obey him, had refused to answer upon his Oath before a judge, he would have been violating the law of Moses, and of his country, as we have seen. We do not find that Christ was ever accused of having violated the law of Moses in this part of his teaching. And when we consider how different the Oaths he spoke of were in form from the judicial Oaths of the Jews, it seems impossible to suppose that his hearers would understand him to speak of these.

806. In this passage, Christ refers to what had been said, namely, *Thou shalt perform unto the Lord thine oaths.* But we learn from another passage that this *had been said* with various distinctions. In



Matth. xxiii., 16, Christ reproaches the Scribes and Pharisees on this subject : *Woe unto you, ye blind guides, which say, Whosoever shall swear by the temple, it is nothing ; but whosoever shall swear by the gold of the temple, he is a debtor ! . . . And whosoever shall swear by the altar, it is nothing ; but whosoever sweareth by the gift that is upon the altar, he is guilty.* And he then explains, that all these distinctions, which were used to show Oaths to be no Oaths, were futile. (v. 17, 19, 20, 21, 22), *The temple sanctifieth the gold. . . the altar sanctifieth the gift. Whosoever shall swear by the altar, sweareth by it, and by all things thereon. Whoso shall swear by the temple, sweareth by it, and him that dwelleth therein. He that shall swear by heaven, sweareth by the throne of God, and by him that sitteth thereon.* These are very forcible considerations against the light or familiar use of Oaths ; but of no apparent force to overthrow the Jewish law which, given by God himself, had till then permitted and enjoined Oaths. Indeed, the precept by Christ, *Swear not at all*, cannot be considered as having reference to judicial Oaths. The forms mentioned of swearing, *by heaven, by Jerusalem, &c.*, were not judicial forms, and the precept is combined with other precepts which would put an end to all judicial contents : *Resist not evil. . . And if any man will sue thee at law, and take away thy coat, let him have thy cloak also* (Matth. v., 40). When Christ says (ver. 37), *Let your communication be, Yea, yea ; Nay, nay ; for whatsoever is more than these cometh of evil*, we may readily apply this to judicial Oaths, for these come as lawsuits come, from the cupidity and anger, the falsehood and levity of man. Oaths come of evil sources, and judicial Oaths among others ; but there is in the precepts now referred to, nothing which denies them, so far as they are evils, to be necessary evils, as all judicial proceedings may be said to be, if we look at their origin.

807. Accordingly, it is related that Christ (Matth. xxvi., 73) held his peace when he was accused till *the high priest said unto him, I adjure thee by the living God, that thou tell me whether thou be the Christ, the Son of God.* He then answered, *Thou hast said*; or, as St. Mark gives the answer (xiv., 62), *I am.* This is conceived by commentators to be a submission to an Oath imposed in a judicial procedure. An Oath for judicial purposes is mentioned with apparent approval in the Epistle to the Hebrews (vi., 16), *An oath for confirmation is the end of all strife*; and this is stated, in order to explain God's condescension, in accommodating himself to the customs of men, as when he swore to Abraham; thus adding to one immutable thing, God's promise, another immutable thing, his oath. It cannot be supposed that such illustrations and expressions would have been used by the writer, if he had held the oaths of men to be sinful.

808. For the like reasons, we cannot understand the precept given by St. James as applicable to Judicial Oaths. It is almost a verbal repetition of the words of Christ (James v., 12), *But above all things, my brethren, swear not, neither by heaven, neither by the earth, neither by any other oath; but let your yea be yea; and your nay, nay; lest ye fall into condemnation.* This precept occurs in an Epistle in which the government of the tongue is especially dwelt on (ch. iii). It does not occur along with precepts for the conduct of Christians in their intercourse with the world; but is connected with injunctions of the feelings which were to be excited by the approaching coming of the Lord. Thus ch. v., 8, *Be patient... for the coming of the Lord draweth nigh*; ver. 9, *Grudge not one against another... behold, the judge standeth before the door.* ver. 10, *Take the prophets for an example of patience.* ver. 12, *Above all things, swear not.* ver. 13, *Is any afflicted? let him pray.* *Is*

*any merry? let him sing psalms.* It is plain that we have here a train of injunctions respecting the seriousness of thought and demeanour which were suited to the near coming of the Lord; and it is evident that any light or trivial mention of sacred things, such as familiar swearing involves, was grossly at variance with this seriousness: but we have here no ground for concluding anything against the serious and faithful discharge of an important task, like that of giving to our solemn declarations a religious sanction.

809. Besides the allowance given to judicial Oaths by the above passages, we find countenance given to religious asseverations in other cases by the example of St. Paul (Rom. i., 9), *God is my witness ...that I make mention of you always in my prayers.* (2 Cor. i., 23), *I call God as a witness on my own soul, that to spare you I came not to Corinth.* These expressions so far assume the form of an Oath as to show us that in that form there was nothing repugnant to the religious views of St. Paul.

810. The examples of swearing which are given in the precepts above quoted are all of the same form: *by heaven, by earth, by the altar, by the temple.* The forms of asseveration used by St. Paul are different: *God is my witness; I call God as a witness.* The forms used in other cases are still different: *God do so to me, and more also, if ought but death part thee and me* (Ruth i., 17). *As I shall answer to God at the day of judgment* (which is the form of Oath in Scotland); *So help me God*, which is the usual form in England.

## CHAPTER XXIV.

## CHRISTIAN MINISTERS.

811. Not only Times and Places, but also Persons, are specially appropriated to religious offices. This practice has been so universal in the world, that it must be considered a consequence of Natural Piety. In the case of our religion, the reasons for such a practice, on grounds of mere reason, are evident. To give religious instruction to Christians, the teacher must be acquainted with the Scriptures of the Old and of the New Testament; and in order to understand them, he must have an acquaintance with the history and manners of those times. He must also be acquainted with the history of the Christian Church; and with the doctrines which have prevailed in it; especially with those doctrines which the condition of his own National Church requires him particularly to inculcate. This cannot be done, without selecting from the community the ministers of religion; making them a *Clergy*; educating them for their profession; combining with it the means of their being supported without being compelled to engage in other labours; and thus giving them both the means, and the obligation, to devote all their powers to their ministry.

812. The establishment of a Clergy, recommended by these reasons, is in agreement with the Jewish polity; according to which a body of priests was set apart, to perform the religious offices; and the tribe of Levi in general was appointed to assist these priests in their ministrations. The Priests and Levites had an ample provision made for them, out of the tithes, first-fruits, and offerings of the people; and had also forty-eight cities appointed for their residence (Num. xxxv., 1). They were trained, by

hereditary instruction and tradition, in the offices of the temple-worship, and in the knowledge of the law and the prophets.

813. The Apostles, the first teachers of the revelation of Jesus Christ, were selected and fitted for their office, in an especial and supernatural manner, by God himself. But when the Apostles made converts on an extensive scale (Acts xiv., 23), they ordained them certain officers in every church whom they called *presbyters* or elders (so Tit. i., 5). These Presbyters are joined with the Apostles in office (Acts xv., 2, 4, 6, 22, 23; xvi., 4), and are spoken of as the usual governors of the church (Acts xx., 17; xxi., 18). They prayed with the sick (James v., 14). They are thus exhorted by St. Peter (1 Pet. v., 1), *The presbyters among you I exhort, who am also a presbyter...Feed the flock of God which is among you, taking the oversight thereof (ἐπισκοπῆτες) not by constraint, but willingly; not for filthy lucre, but of a ready mind: neither as being lords over God's heritage, but being ensamples to the flock.* It is evident, from this passage, that the office of presbyter was, at this time, assimilated to that of a pastor or shepherd; and that it was one of authority, since the presbyters are exhorted not to exercise their authority in an imperious manner (κατακυριεύετε). So (Matth. xx., 25; Mark x., 42), *The princes of the Gentiles exercise dominion over them*, where the same verb is used.

814. The warning, not to make gain the object, implies that the minister commonly received something from his flock. And St. Paul asserts the reasonableness of this claim (1 Cor. ix., 7): *Who goeth a warfare any time at his own charges? who planteth a vineyard, and eateth not of the fruit thereof? who feedeth a flock, and eateth not of the milk of the flock? . . . If we have sown unto you spiritual things, is it a great thing if we reap your carnal things? . . . Do ye not know that they which minister about holy*

*things live of the things of the temple ? and they which wait at the altar are partakers with the altar ? Even so hath the Lord ordained that they which preach the gospel should live of the gospel.* And though he refused to avail himself of this reasonable claim in the case of the Corinthians (2 Cor. xi., 9 ; xii., 13), and of the Thessalonians (1 Thess. ii., 9 ; 2 Thess. iii., 8) ; still he asserts it (1 Cor. ix., 12), *If others be partakers of this power over you, are not we rather ? Nevertheless we have not used this power.* And (2 Thess. iii., 9) ; *Not because we have not power, but to make ourselves an ensample unto you to follow us.*

815. The establishment of an ordained ministry of religion, provided by their condition with means of support, is, as we have seen, recommended by the reason of the case and the analogy of the Jewish polity : and the inference in its favour is, in the above and other passages, so distinctly drawn and confirmed by Apostolical authority, that it is needless to dwell longer upon the subject. To promote or uphold the establishment of a paid ministry of religion ; and to act as minister of such an establishment, are plainly proceedings in entire conformity with Christian duty.

816. Besides teachers, religious ministers for other offices were very early appointed in the Christian Church. The Apostles had, at first, the office of distributing to the poor what the benevolence of the converts provided for them ; but they soon found it convenient to appoint a special body of persons for this ministration. The Apostles said (Acts vi., 1), *It is not reason that we should leave the word of God, and serve tables. . . We will give ourselves continually to prayer and to the ministry of the word.* And the Christians accordingly appointed seven *Deacons* or ministers, whom the Apostles ordained by praying and laying their hands upon them (verse 6). And this office continued to exist in the Church from that

time. St. Paul in his directions to Timothy says (1 Tim. iii., 8), *The deacons must be grave, not double-tongued, not given to much wine, not greedy of filthy lucre : holding the mystery of the faith in pure conscience. And let these first be proved ; then being found blameless, let them use the office of a deacon.* And the office has come down uninterruptedly to our own time, as the first stage of the Christian ministry ; although the different condition of the Christian community has materially altered its business in most places. Such an alteration has, however, taken place gradually, under the guidance of due ecclesiastical authority.

817. We also find in the New Testament *Bishops* mentioned, as the governors and teachers of Christian churches. They are joined with Deacons. (Phil. i., 1.), *Paul and Timotheus, the servants of Jesus Christ, to all the saints in Christ Jesus which are at Philippi, with the bishops and deacons.* The term means *Overseers* ; and in Acts xx., 28, is so translated : where St. Paul applies it to the Presbyters of Miletus : *Take heed therefore unto yourselves, and to all the flock, over which the Holy Ghost hath made you overseers (ἐπίσκοποι) to feed the Church of God, which he hath purchased with his own blood.* He appears also to apply the term to presbyters in writing to Titus. (Tit. i., 5), *I left thee in Crete, that thou shouldest set in order the things that are wanting, and ordain presbyters in every city, as I had appointed thee : if any be blameless...For a bishop must be blameless.* Here the qualities requisite in a Bishop are also demanded for a Presbyter. Nearly the same requisites for a Bishop are enumerated 1 Tim. iii., 1 ; where it is also said, *This is a true saying, If a man desire the office of a bishop, he desireth a good work.* But in a short time this name, *Bishop*, became a fixed title of those who, after the Apostles, exercised the chief power in the Church ; and the

authority of each Bishop was limited to a special district or Diocese (*διοίκησις, παρoικία*). "We are able to number up them," says Irenæus (lib. III., c. 3), "who by the Apostles were made bishops." James, "the brother of our Lord," was bishop of Jerusalem; Timothy, of Ephesus; Titus, of Crete. Irenæus says that the Apostles made Linus the first bishop of Rome, and Polycarp of Smyrna. Ignatius testifies that the Apostles made Evodius bishop of Antioch. "Nulla ecclesia sine Episcopo, has been," says Gibbon (c. xv., § 5, note), "a fact as well as a maxim, since the time of Tertullian and Irenæus." "After we have passed the difficulties of the first century," he adds, "we find the Episcopal government universally established till it was interrupted by the republican genius of the Swiss and German reformers." This being the case, it appears to be not too much to assert the Authority of Bishops, and the necessity of the office in the Church, to be a Catholic and Apostolic Institution.

818. Since we thus accept Episcopal Authority, as necessary by Catholic and Apostolic tradition, we are bound to the Duty of establishing and upholding it in our own Church. We are also bound to the Duty of obeying and reverencing the persons who are invested with this Dignity; and of spiritually profiting by their ministrations, according to their place and ours in the Church.

### *Ordination.*

819. It has already been shown that the selection of a special body of persons, for the ministry of Christian worship and instruction, is an institution of primitive authority and uninterrupted usage in the Church. It is proper to make some remarks on the character which belonged to persons thus selected, and the Ordinances by which they were invested with it.



According to the religious views of many nations, the *Priest* does not merely pray *with*, but also in an especial sense *for*, the People. He not merely directs and gives form and utterance to the devotional emotions of the *Laity*, but he is an intermediate person between them and the Deity whom they address. Through him prayers find a more ready access; and by him, religious ministrations are performed, which the laity cannot perform without an offence against religion. This was the case also in the Jewish Church. The Priests and Levites alone were allowed to perform the sacrifices and other rites of religion. But the High Priest was in a more especial manner the intercessor for the People. (Heb. v., 1), *The High Priest is ordained for men in things pertaining to God, that he may offer the gifts and sacrifices to God...He ought, as for the people, so also for himself, to offer for sins. And no man taketh this honour to himself, except he that is called of God, as was Aaron.*

820. But from this same Epistle to the Hebrews, we learn that the Jewish High Priest is, in the Christian dispensation, represented, not by the Christian Priest, but by Jesus Christ himself—who (Heb. x., 14) *by one offering hath perfected for ever them that are sanctified.* The Christian minister is never called *ιερεὺς*, *sacerdos*, the proper designation of a priest who offers sacrifices; but *ἐποσκοπος*, *presbyter* (elder), which has been, in the progress of modern languages, abbreviated. The Spanish word is *presbitero*, the Old French *prestre*, the German *priester*, the Anglo-Saxon *preost*, from whence the English *priest*. Christians in general, indeed, without distinction of Laity and Clergy, are called (1 Pet. ii., 5 and 9), *a holy priesthood (ἱερείον), to offer up spiritual sacrifices acceptable to God by Jesus Christ; and a royal priesthood, a holy nation, a peculiar people.* But this contradicts, rather than confirms,

the notion of an analogy between the Jewish priesthood and the Christian ministry. The Christian ministers are, by learned writers, considered as corresponding rather to the ministers of the Jewish Synagogues, than to the Levitical order.

821. Christian ministers derive their special character and authority from the presumed Commission of Christ and of the Church which he established. He himself chose of his disciples twelve, called them Apostles, and gave them extraordinary powers, as well as a special Mission (Matth. x., 1. Mark iii., 13. Luke vi., 12). After his Resurrection, and shortly before his Ascension, he repeated his Commission to them, and his promises of Divine Assistance. (Matth. xxviii., 16. Mark xvi., 15. Luke xxiv., 44. John xx., 22). *He breathed on them, and said, Receive ye the Holy Ghost. Whosoever sins ye remit, they are remitted : and whosoever sins ye retain, they are retained.* And in parting with them, *he lifted up his hands and blessed them.* But in the time of the Apostles, others also had special Divine gifts. The persons who had special religious functions in the early Church are described by St. Paul (1 Cor. xii., 28), as, first, Apostles ; second, Prophets ; third, Teachers ; fourth, Workers of Miracles ; fifth, those who had gifts of healing ; sixth, those who spoke with tongues ; seventh, those who interpret. In these cases, the Divine gift at once marked the appointment of the person, and his special office : but these cannot be considered as examples of the manner in which it was intended that Christian ministers should be, in all ages of the Church, invested with the ministry, and directed to their proper business.

822. The first example of the appointment, or *Ordination* of persons to a religious office, in a manner which can be followed by succeeding ages, is the selection and ordination of the seven Deacons

described Acts vi., 6: *They were set before the Apostles; and when they had prayed, they laid their hands upon them.* In Acts xiv., 23, it is said of Paul and Barnabas that *they ordained presbyters in every Church, and prayed with fasting, and commended them to the Lord, on whom they believed.* The word here and elsewhere translated "ordained," is *χειροτονήσαυτες*, which is understood to imply the laying on of hands, as in the case of the deacons. The laying on of hands as a mark of blessing was a very ancient Jewish custom. Jacob laid his hands upon Ephraim and Manasseh, when he blessed them (Gen. xlviii., 14). Which custom Jesus Christ followed, when he blessed the little children (Matth. xix., 15). It was also the action used when the Holy Ghost was communicated to persons baptized (Acts viii., 17, and xix. 6). Timothy was ordained to the ministry in an especial manner by St. Paul laying his hands upon him (2 Tim. i., 6): *Stir up the gift of God which is in thee by the putting on of my hands* (*διὰ τῆς ἐπιθεσίως τῶν χειρῶν μου*). But the presbyters also laid on their hands. (1 Tim. iv., 14), *Neglect not the gift that is in thee, which was given thee by prophecy, with the laying on of the hands of the presbytery* (*διὰ προφητείας μετὰ ἐπιθεσίως τῶν χειρῶν τοῦ πρεσβυτερίου*). Accordingly, St. Paul, after giving directions to Timothy concerning Elders, adds (1 Tim. v., 22), *Lay hands suddenly on no man.* To Titus he gave commission to *ordain presbyters in every city*; but here, the word translated *ordain*, is *καταρτίζεις*, *appoint*. The practice of laying on hands, in the Ordination of Presbyters, continued in the early Church. Not only the Bishop, who was the principal person in the performance of the ordinance, but the other Presbyters who were present, laid their hands on the head of the person to be ordained. But the term *χειροτονία* was applied to the bishop only (Constit. Apostol. viii., 28, *πρεσβυτέριος χειροτονεῖ τὸν ἐπίσκοπον*).

823. From the early times of the Church to the time of the Reformation, Bishops alone had a right to ordain Priests. In England, Sweden, Denmark, Ordination is only performed by Bishops. And even some of the protestants, who have rejected episcopal government, give the right of ordination to the *Superintendent*, and commonly only to the *General Superintendent*, or higher officers of their Ecclesiastical Polity. Those protestants who are specially called the Reformed (the followers of Calvin), hold that every minister may ordain. But in the larger churches of this kind, in Switzerland, Holland, and Scotland, there is a certain Order of Ordination by the Seniors, Class-leaders, Synodal Superintendents, or the like. Only the Presbyterians, Independents, and other Dissenters in England, reject the imposition of hands, and allow every minister to ordain others.\*

824. It is an ancient requirement of the Church that every minister must be ordained to a special local Ministry. The priest was ordained as the Pastor of a particular Place. The appointment to the special place was called a *Title* :—and the Rule was, *Neminem absolute et sine titulo esse ordinandum*.

825. The appointment of a minister to any particular place or *Parish*, was often in the hands of the principal owner of the land. He was the *Patron* of the *Living*. His was the *Advowson* (*Advocatio*). Of course the Patron could not appoint to the living any one except a person already in Holy Orders. The Right of Patronage became often an appendage of private property ; and was bought and sold, like other appendages of property.

826. It was forbidden in the Church to obtain any spiritual office by purchase, gifts, or promises ; and this offence was called *Simonia*, *Simony*, from its supposed resemblance to the offence of Simon Magus ;

\* Augusti. *Christ. Arch.*, B. XI., c. 3.

who (Acts viii., 18) offered the apostles money, saying, Give me also this power, that on whomsoever I lay hands, he may receive the Holy Ghost. In the Apostolical Canons, which, though not what they pretend to be, are Christian precepts of an early date, it is said (Canon Apost. xxviii.), "If any Bishop shall obtain this dignity by means of money, or any Priest or Deacon, let both him and the persons who ordained him be utterly excommunicated, as Simon Magus was by me Peter." The condemnation of Simony has been continued to modern times, and adopted in our own Laws; and it is plain that not merely the sacredness of spiritual things, but justice and decency, are violated by the sale of spiritual offices.

§27. The Sale of Advowson, of which we have just spoken, may appear to be at variance with the prohibition of the Sale of Spiritual Offices. But this is not so: for the spiritual office, the Order of Priest or Deacon, is not bought or sold. The Right of Private Patronage implies rather a sacred aspect in Property, than a secular aspect in the Ministry. The principal Lord of the land had originally a religious, as well as a civil Duty, to his tenants. And when the Advowson is separated from the local property, it still implies a religious Duty in those who hold it.

Yet the Laws against Simony, and the Right of Private Patronage, sometimes appear to be in conflict. Thus a clergyman may, as well as any other person, purchase the Advowson of a Living. But he may not purchase it so as to secure himself the next turn only.

§28. The manner in which Religious Ministers, and the Property by which they are supported, are protected and regulated by the State, is one of the most important features in the different Polity of different Nations. It is their *Ecclesiastical Polity*. Of this subject we shall have to treat in the next Book.

## BOOK V.

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### POLITY.

### THE DUTIES OF THE STATE.

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#### CHAPTER I.

#### THE RIGHTS OF THE STATE.

829. We have already (465—475) spoken of *The State*, as a Conception applicable to every Community of Men, among whom Rights and Obligations really exist. The State is the Origin of the Law, and of the powers which execute the Law; and hence, is the Source of the reality of Rights. The State is Supreme, or Sovereign over all persons and authorities within it. The State is single and permanent, while its subjects are many and mutable. We have also seen that the State so conceived is a Moral Agent: it has Duties; and among these Duties, we have been led to notice especially the Duty of Educating the people (474). We have now to consider more fully the Duties of the State in general, and this Duty of Education in particular.

830. In the case of individuals, Duties are extensions of Obligations, and Obligations imply Rights. The same is true of States; and therefore we have

to consider in the first place the Rights and Obligations of States.

We have already spoken of the rights of Government, and the Obligation of Obedience on the part of the governed (206). These Rights are Rights of the State. It is from the State, that all persons placed in Magistracies and Offices of Command derive their Right to the obedience of subordinate persons. It is as representing or possessing the Authority of the State, that they are Persons in Authority. The Obedience which is rendered to the Magistrate, is rendered to the Law, and to the State, which is the Source of the Law. The State is the origin of Rights in general, as we have said; but it is the origin of other Rights, by having the Rights of Government. Other Rights, as Rights of Property, it assigns to its subjects; the Rights of Government, it asserts to itself.

381. The relation between the Rights of Individuals and the Rights of the State, has been variously presented by different Moralists. Some, as we have said (400), have considered the Rights of the State as formed by the addition of the Rights of Individuals. According to this doctrine, Individuals constitute a State, by uniting themselves, and contributing to a common stock the rights which they naturally possess; sharing this stock of Rights among themselves by common consent, and establishing Officers and Laws to carry their agreement into effect.

We have already (400) pointed out the untenable character of this Doctrine. Rights cannot exist without the State. Individual Rights cannot be supposed anterior to the State; and thus, State Rights cannot be hypothetically constructed out of Individual Rights. But further: there are some State Rights in particular, which are more evidently, from special considerations, not aggregates of individual

Rights. These peculiar State Rights we shall proceed to describe.

§32. The State has a *Right to the National Territory*. Individuals derive their Rights to their special Property in Land, from the State, according to the Law of the Land ; but they could not derive those Special Rights from the State, except the State had a general Right to the whole. An Englishman has a Right to his landed Property in England, because the Law of England gives it him. A Frenchman has a Right to his landed Property in France, because the Law of France gives it him. But this assumes that the English State, which speaks its Will in the English Law, has a Right to the Soil of England ; and in like manner, the French State is assumed to have a Right to the Soil of France. An Englishman may possess land in France ; but this is, still, by the Law of France ; and implies the Right of the French State to the French Territory. There can be no property in Land, except what is derived from the State in which the Land belongs.

§33. We may illustrate this further. Suppose any *County* of England were conceived as detached from the State ; as no longer owing obedience to the English State, or deriving Rights from it. What Right, on this supposition, have the inhabitants of the County to the land on which they live ? It may be said, that they have the Right of Possession. But Present Possession can confer no Right, on such a supposition. Present Possession is a fact, which may be succeeded, at any moment, by the opposite fact of Dispossession ; and then the Right is gone. Suppose the inhabitants of this County to be dispossessed violently by a body of new settlers from any place, at home or abroad ; of what wrong can they complain ? When dispossessed, they have no longer the Right of present Possession. If they urge the Right of past Possession, how is this a Right, and by



what laws regulated, when the Law of the Land is rejected? How have they themselves acknowledged the Right, either of present or past Possession? Their ancestors, Saxons, Danes, and Normans, seized the Land by violence, disregarding both present or past Possession. This historical event is a good foundation for the Right of Property, if we assume as men, in thinking of Rights, always do assume, that a population, organized as a State, have a Right to the territory which they occupy: for the imperfect and undecided organization of the English State, which, in the times of the struggles of the Saxons, Danes, and Normans, might leave questions of Right doubtful, has long since passed away. But if men reject this foundation of Rights, the ancient Wrongs, from which they derive their claims, will prevent them from consistently complaining of Wrongs, if, in modern times, acts of violence be done to their damage, like the ancient acts of violence of which they now enjoy the profit. The only good ground of the complaint of Wrong, when the Right of landed Property is violated, is the Right of the State to the Soil of the Country, and the Will of the State expressed by the Law of the Land.

834. The Principle just referred to; that a Community, organized as a State, has a Right to possess their Territory; and the Individuals cannot acquire Property in Land, except by derivation from a State, is often carried further; thus showing how entirely the Principle is accepted. It is maintained, for instance, that a Civilized State, on discovering a country of Savages, may take possession of it; and that the possession of the Savages must be regulated according to the Laws of the Civilized State. But these are questions of International Law, which we shall not here discuss.

835. Another Right of the State is *the Right of making War* on other States. This Right is neces-

sary to the existence of the State, as a distinct and independent agent, which is sovereign over all its subjects within it, and protects them against all harm from without. If its subjects be injured, or its independence assailed, by a foreign State, it has no resource but remonstrance, which may inevitably lead to War; since States have no common tribunal before which injury done by one to the other can be inquired into, and redress given.

836. This Right of making War is not a Right arising from the combination of the Rights of individuals. England has a right to make war on France, on due grounds; but no one or more Englishmen have a Right to make war on any selected number of Frenchmen. In the case of a National War, individuals commit acts, which would be murder and robbery, if they were not committed under the Authority of the State. It is true, there have been rude times in Europe (and there may still exist such in other countries), when the Right of Private War subsisted. But even in these times, this Right did not exist as an original Right of individuals; but as a Right given by the Law, and limited by the Law; and if any one used violence out of the limits of the Law, he was treated as a malefactor. The Right of Private War was especially subordinate to, and limited by, the Right of National War. So far as sovereignty had its power, the Sovereign, when he made War upon another Sovereign, forbade Private Wars among his Subjects and forbade Private Treaties of Peace with the Subjects of the enemy. Thus, even in the times of Private War, the Right of the State to make National War was the Fundamental and Paramount Right. But we must further add, that a State, which recognizes Private War, is very imperfectly organized. Under such a State, men possess in a very incomplete degree, the Rights, of Protection from Violence, Se-

curity in their Property, and the like. As the Nation more entirely assumes the genuine attributes of a State, the right of Private War declines, till it is extinct. But the Right of National War, during this progress of improvement, undergoes no diminution. The most completely organized State possesses this Right at least as fully as the Sovereign of a body of Feudal Lords ever did. And thus, this Right belongs to the State, as a State ; and not in virtue of any mode of composition, by which the State may be supposed to have assumed its existence.

637. We may remark further, that the Right of the State to the National Territory, of which we have already spoken, necessarily carries with it the Right of making War, when the National Territory is infringed, if no redress or defence can be had in any other Way. The Right of each man to his Property, is realized and enforced by the power of the State ; but the Right of each State to its Territory, if contest arise, can be realized and enforced only by Treaty ; or if that fail, by the power of the Sword. And thus, a State has, as one of its characteristic attributes, the Right of making War on Other States, on due occasions.

638. Another Right peculiarly a State Right, not derivable from any supposable Rights of individuals, is the Right of Bodily Punishment, and especially the *Right of Capital Punishment*. In exercising the Right of War, the State necessarily assumes a Right to put in peril, and to expose to destruction, the lives of its subjects, who serve it as soldiers. But in that case, it is not that the State inflicts the blow, but that it cannot avert it, under the circumstances. In the case of Capital Punishment, the State itself takes away the Life of its subject, inflicting a sudden and violent death. The Right of doing this is universally assumed in States. And it is assumed necessarily. Without the exer-

cise of this Right, the State could not discharge its office. Its business is, to give reality to the Rights of men in Society. But Rights cannot have reality, except they be as real as the other springs of human action. In order that Rights may be real for me, the Rights of another man must be as real in my eyes as the Objects of Desire. To each man, the Obligations of other men must be realities, as well as his own Appetite, Anger, Avarice, or Ambition; the former must influence his hopes and fears in the same manner, stimulate and restrain him in the same manner, as the latter. But the highest and most real of the objects of men's hopes and fears are Life and Death, accompanied with Honour and Shame. A violent and ignominious Death fills the full measure of the object of man's fear. The force of Desire, Appetite, Anger, and the like, is fully expressed, when a man loves objects as his life, and dreads them as such a death; but it is not fully expressed by anything short of this. Hence, Rights and Obligations will not be real in Society, to the same extent as other objects of action are real, if they be not sanctioned by the prospect of Life and Death, as depending upon the observance or violation of Obligations. If the sanctions of Rights stop short of this, there will be some region of human action, in which the lawless springs of action are not balanced: some province of human nature, in which the extreme forms of passion, appetite, anger, and the like, are not governed by any efficient authority.

839. The necessity of the Right of Capital Punishment being vested in the State, will also appear from the following considerations. If the State do not possess this Right, such a Right may be assumed by another body of persons, who by that very assumption become more powerful than the State, and may seize all the powers of the State. If there were no Capital Punishment for Treason, and the

like crimes ; an association of men might arm themselves, and, making death the punishment for opposing them, might compel the citizens to obey them, and to disobey the legal authorities. For what would other inferior punishments avail, to avert such a result ? Who will be found ready, unarmed, to inflict imprisonment or exile on a body of armed and resolute men ? It is plain, therefore, that, in extreme cases at least, Capital Punishments are necessary to the existence of the State : and therefore, the right of inflicting such Punishments must belong to the State.

840. The Right of Capital Punishment is a special and original State Right, and does not arise from any combination of individual Rights. This Right cannot be conceived to be a Right arising from a common consent, and given to the State by an understood compact between it and individuals ; each person conveying to the State a Right over his own life, in case of his committing a capital crime. For, in the first place, the assumption that man, as an individual, has such a Right, is contrary to common Morality. If a man have a Right over his own life, he may cast off life when he pleases, and Suicide is no sin. And even if it were allowed that a man has a Right over his own life ; the further assumption, that he has transferred this Right to the State, by a transaction of which he was unconscious, and in which he had no choice, is so extravagant, that it cannot afford a satisfactory basis for Rights. Thus, we reject the notion of this Right arising from consent or compact, and consider it as a special and original State Right.

841. Again, there is another Right which is exercised by all States ; *the Right of imposing Oaths* ; for instance, Oaths of Testimony, and Oaths of Office. This Right, also, is necessarily exercised by States. Such Oaths identify the Citizen's

Obligations with his Duties. As a Witness, to give true testimony ; as a Judge, to administer justice ; are always Duties. By means of Oaths, these Duties become Obligations imposed by a distinct Contract, and accepted by a solemn Engagement. And if there be not this identity of Duty and Obligation in general, the State cannot subsist. For the State consists of men, who are moral beings ; and who cannot, without an intolerable violation of their nature, go on continually discharging Obligations, which have no connexion with their Duties. The essential part of the business of the State must be regarded with the solemnity which belongs to moral acts ; otherwise, the State itself cannot be a permanent reality, in the minds of moral men. And, as we have already said (877), the natural way of acknowledging and marking this moral solemnity, among religious men, is by acting, and declaring that we will act, as in the presence of God ; that is, by taking an Oath to act rightly. The thoughtlessness of men, and the excuses which, in common life, they make for falsehood, deceit, injustice, partiality, inconsistency, passion, and the like, are such, that it is requisite, for the essential business of a State, to demand of them another frame of mind than that which is usual in their common intercourse. If the Witness were to give his Evidence, the Jury, their Verdict, the Judge, his Sentence, with the carelessness and perversion of truth and right, which men often allow themselves in common conversation ; the administration of justice would be impossible. If the Witness told his tale, and the Judge gave his opinion, with the levity which prevails at a convivial meeting, how could a moral citizen bear a part in a court of Justice ? On such occasions, then, men must be grave, must be thoughtful, and must engage to be so. The occasion and the acts must be marked as solemn ; and

this, as we have said, is necessarily done, among religious men, by the Witness narrating, and the Judge deciding, as in the presence of God. And the occasion is marked as solemn, by each person declaring that he does this; that is, by the Oaths of the Witness, and of the Jurymen, taken at the time of the trial; and by the Oath of Office, which the Judge has previously taken.

842. The necessity of the Right of administering Oaths being vested in the State, will also appear from the following considerations. If the State do not exercise this Right, a body of the Citizens, bound together by their common belief in God and in his Judgments, may administer, to each other, Oaths to co-operate in their common purposes; and may thus, when their purposes become inconsistent with, or hostile to, the existing Government, overthrow the Government, and take the Authority of the State into their own hands. For a State, not claiming a moral reality for its acts, by means of religious solemnities, could not stand against a great body of citizens bound together by religion. If such citizens be brought before the tribunals for hostility to the government; the witnesses, the jury, the judge, may be of the religious party; and, not being bound to their official act by religion, they will act so as not to be the effective agents of laws which they deem unjust and cruel. And if the laws be still enforced, by the agency of citizens acting without any acknowledged tie of religion, the laws must soon cease to be regarded as just; for morality cannot long subsist in men's minds without religion. When this has taken place, and the laws are no longer supported by an opinion of their general justice, the empire of the law becomes the empire of mere force, which the moral nature of man will not allow to continue long among men.

Thus the ground of the necessity of Oaths in a

State is, that Morality cannot long subsist in men's minds without Religion ; that for the efficacy of religion, a recognition of it by the State is requisite ; and that this recognition is especially requisite on certain solemn occasions, such as judicial proceedings, the assumption of important State offices, and the like.

843. If it be said that Religion may be efficacious in making men true and just on solemn occasions, without being publicly recognized and referred to ; we reply, that though this may be so with some persons, the State can never know which persons are, and which are not, of this number, without the use of some Formula referring to Religion : nor can it be known, without the use of some such Formula, whether any particular person considers the occasion a solemn one or not.

844. The State, therefore, necessarily has the Right of administering Oaths of Testimony, of Office, and the like. And this State Right, like the others, is a special and original Right of the State, not derived from any Combination of individual Rights. For though men, in a Contract or other transaction, may be willing to accept Oaths from one another ; no one man can be conceived as having any Right to impose an Oath upon another man. If there be any difficulty in ascribing to the State a Right to question or limit a man's actions on account of his religious belief or religious sentiments, there must be a much greater difficulty in ascribing such a Right to any individual. And as no individual could have any portion of such a Right, no collection of Individuals could have the Right : and the State Right to impose Oaths cannot arise from the combination of the Rights of the Individuals, of whom the State consists.

845. It may perhaps be said, that an assemblage of religious individuals, associating themselves for



their mutual advantage, might exclude from their body, all who would not, upon due occasions, make certain religious declarations. And this might be so; but we cannot conceive this as the origin of the Right of the State to impose Oaths. For to imagine this, would be to suppose the State to be, not only a voluntary association of individuals; but of individuals in whose minds religious belief and religious sentiments were already established, and who were drawn together by their religious sympathies. But this is an impossible supposition: for we cannot conceive Religion without Morality, or Morality without Society already established. We know that the State does not derive its religious belief from the spontaneous religious sympathies of individuals; but that individuals derive their religious sentiments, in a great measure, from the Society in which they are born and live. Men bind themselves by Oaths, under the direction of the State, not as if it were part of a social contract that they should do so; but looking upon the State as a Divine appointment, and a channel through which the forms of the most solemn engagements must necessarily be derived.

§46. We are thus led to reckon, as Rights of States, besides the general Rights of Government, these four: the Right to the National Territory; the Right of War and Peace; the Right of Capital Punishment; and the Right of imposing Oaths. These Rights are all necessary to the continued existence of States; and, as we have seen, they are not derivative or cumulative attributes, but original and peculiar. We have called them *State Rights*, in order to distinguish them from *Individual Rights*.

To Individual Rights correspond Obligations; and it may be asked whether the State has any Obligations corresponding to its Rights. The answer to this Question will occupy the next Chapter.

## CHAPTER II.

## THE OBLIGATIONS OF THE STATE.

847. THE State is, as we have said, the Source of Law and of Authority, and the Realizer of individual Rights. The State Rights exist, in order that the State may discharge this its office. And hence, the Obligation corresponding to the State Rights is, that the State shall *be* the State ; that it shall deliver and administer Laws, and thus realize Rights. And this it must do, not for a short time merely ; not for one generation only ; but permanently, and with a prospect of permanence. Hence, to provide for this permanence is an Obligation of the State. This we may describe as *the Obligation of Self-preservation*.

848. We more frequently hear the *Duty* of Self-preservation ascribed to the State : but we shall, in general, use the term *Obligation* in speaking of this subject : not only because Obligation is the term corresponding to Right ; but also, because this Obligation is enforced by a real Sanction, as individual obligations are : for if the State do not fulfil this Obligation of Self-preservation, it will not be preserved, but will be dissolved, and will cease to be a State. If, however, we wish to retain the term *Duty* in this case, we may speak of the Duty of Self-preservation as the *Lower* Duty of a State, in comparison with other Duties, such as the Duty of rendering its subjects moral and intelligent, which are its *Higher* Duties.

849. This State Obligation of Self-preservation divides itself into several branches ; related in some measure to the different State Rights of which we have spoken. Those Rights are assigned to the State for certain purposes ; and the State is under Obligations to employ them for those purposes.

The Right of making War is a necessary appendage to the Right to the National Territory ; and is to be used, when necessary, for the purpose of defending the Nation from every intrusion of an enemy upon its soil ; and also, for the purpose of protecting the citizens from all other violence and injustice, inflicted by strangers. The State is obliged to take measures which may have such an effect ; and this is the *Obligation of National Defence*. All individual Rights stand within the fence of the National Right ; and the State is bound to keep this fence entire and substantial. For this purpose, the State is bound to provide an Army, or the means of raising an Army, when the need arises ; and to provide the means also of supplying its Army with Officers, and with Munitions of War. The State is bound, also, to keep a watchful eye upon the movements of other States ; and if it sees them preparing any evil for itself, to avert the danger by timely precautions. For this purpose, Negotiations with other States may be requisite ; and hence, Embassies, Treaties, and the like. Such negotiations, in the discussions to which they lead, necessarily assume the existence of Rights and Obligations between Nations ; and thus, we are referred to an *International Jus*, of which we shall hereafter have to speak. The Obligation of National Defence is the first Obligation of a Nation, for it is necessary to the existence of a Nation. Without the fulfilment of this Obligation, a State cannot exist, even in the most imperfect form. A State which used no means of defending itself, would soon be blotted out of the Map, by the pressure of surrounding States.

850. The next branch of the State's Obligation of Self-preservation is the *Obligation of upholding Law*. The last-mentioned obligation regarded foes without the nation ; this regards citizens within it. In the former case, we spoke of maintaining the ex-

ternal fence which protects the National Existence ; we now speak of keeping up the internal barriers of individual Rights. These Rights are to be realized by the Law ; and except they are made real by the enforcement of the Law, they cease to exist, and the citizens cease to be citizens. In this case, the State is destroyed by the dissolution of its internal organization, as completely as if it were obliterated by external violence.

851. There are, however, various degrees of such Disorganization, according as the Laws are enforced with more or less vigour and steadiness. Looking merely to the Self-preservation of the State, if the Rights of the more Powerful Class of the Citizens be upheld for them, the State may long subsist, although there are other Classes whose Rights are neglected, or gradually encroached upon. That to do this, is a violation of the Duty of a State, we shall hereafter see. But that the long-continued existence of a State is not inconsistent with the continued prevalence of illegal oppression of some classes of the community, the history of many nations abundantly shows. Still, so far as such practices prevail, the organization of a State is imperfect ; its functions do not proceed in a healthy manner. The imperfect or unequal administration of the laws may not be the immediate Death of the State, but it is a grievous Disease, however long it may be protracted. A State, in order to preserve its full vitality, must make the laws to be respected ; and respected alike by all classes, high and low ; rich and poor. So far as power and wealth can shield their possessors from the hand of the law, such men are placed above the law ; and the State has a tendency to fall to pieces, and to cease to be a living State.

852. Another branch of the Obligation of Self-preservation belonging to States is *the Obligation of repressing Sedition*. By Sedition, is meant any

course of action separating the citizens from the State, and transferring to a Rival Body the obediences due to the State. When this Rival Body places its strength in external force, it is an *Armed Sedition*; when it rests its pretensions upon defects in the Right of the Governor, it is a *Political Sedition*; when it draws men together by their religious sympathies, it is a *Religious Sedition*. Of whatever kind the Sedition be, it tends, so far as it attains its object, to a destruction of the State. The establishment of a Rival Body, whose officers and laws are obeyed, rather than those of the State, necessarily interferes with and disturbs, and in its natural result, puts a stop to, the functions of government. In this case, as in the others just mentioned, the Life of the State, the body politic, is destroyed; and as its destruction, from defect of national defence, may be represented as death by External Violence, and its destruction from defective administration of the laws, as death by Internal Disease; so the destruction of the State by sedition, may be compared to the fatal effect of an Excreescence which grows in the body, and draws to itself the nutriment which should supply the vital powers.

453. It is a part of the Obligation of Self-preservation belonging to a State, to suppress Sedition, so as to avert this tendency. And this Obligation has always been acknowledged and acted on by all States. The highest form of Sedition is *Treason*. This, in the English Monarchy, is defined to be an offence committed against the security of the king or kingdom; as to compass the death of the king, or to levy war against him, or to adhere to his enemies, or give them aid, within the realm or without. In all monarchies, such crimes have been visited with the severest punishments. But in other forms of government, no less than in monarchies, attempts to overthrow the existing Government have universally

been treated as Crimes of the highest order. In free States, attempts to crush the Freedom of the People, have been commonly considered as no less atrocious crimes, than attacks upon the Sovereign Authorities : and where the usual course of law has been insufficient to resist and punish such attempts, extraordinary acts, on the part of some members of the State, have been often and generally looked upon as necessary results of the State's obligation to preserve its free condition ; such acts were *Tyrannicide*, and the putting to Death, or sending into Exile ambitious men in ancient times ; such acts have been the *Impeachment* of statesmen in England for attempting to render the royal power absolute.

854. The word Treason (*trahison, prodition*) implies not only hostile intentions, but fraud, and breach of trust and generally, *treachery*, a word of the same origin. These notions are, in this general manner, combined with the notion of hostility to the State, or the Sovereign ; because Fidelity to the State, and to the Sovereign, are reckoned among the duties of all citizens. A man who joins with strangers, in harming his own Country, is considered as breaking those bands of national duty and affection which, in their hold upon good men, come next after the ties of family duty and affection : and hence, is looked upon with the same kind of sentiments with which we look upon a man who joins with strangers in harming his father or his mother. A man who is hostile to his country may, it would seem, be treated as a public enemy ; he deserves not to receive the benefit of his country's laws, or to be protected in his property or other rights. And hence, the existing Government, which, in order to justify and protect its own existence, must identify itself with the Country, treats its own enemies as the enemies of their country, and punishes them as Traitors.

This view shows itself in the distinction made be-

between domestic and foreign enemies ; for foreigners coming into the country in a hostile manner are to be dealt with as an enemy ; and if taken, executed by martial law. A foreigner cannot be executed for Treason, say the English Lawyers, for he owes no allegiance to the King.

855. Sedition aims at its objects by *Conspiracy*, the mutual understanding established as to the *Plot*, or Plan of proceeding ; and by *Rebellion*, the open use of armed force against the Government. If a Government do not put down Conspirators and Rebels, it must soon cease to be a Government ; the State, as represented by the Government, must perish. And thus, as we have said, the repression of Armed Sedition is an Obligation incumbent upon the Government, as essential to its Self-preservation.

856. 'The repression of *Political Sedition* is, in some of its forms, generally acknowledged as a part of the State's Obligation of Self-preservation. For instance, if a man declare and maintain that the king is an usurper, and has no title to the crown, such discourse must be conceived to have a tendency to incite the king's subjects to rebellion, and is criminal. The English law makes it a grave misdemeanour to print or publish *Seditious Libels* against the King or his Government. But the genius of free governments, which tolerates a considerable difference of opinions with regard to the justice and wisdom of the acts of the Government, will not allow everything said against the Government and its acts to be treated as Seditious. Accordingly, the English Law permits a man to discuss the measures adopted by the King and his Ministers ; but requires this discussion to be conducted fairly, temperately, and with decency, without attributing corrupt motives.

857. 'The repression of *Religious Sedition* is, under some of its forms, evidently necessary, as the only means of Self-preservation which the Govern-

ment can find; for instance, where the Seditious Party teaches, on Religious grounds, obedience to a Supremacy, the rival of the Sovereign Power in the State; or where the Party teaches, on religious grounds, resistance to the Laws. The rival Supremacy may be claimed for a religious Body or Person residing within the nation; in which case it is more plainly of a seditious character. If, within the boundary of the State, there be claimed for a foreign potentate, or other person, a Supremacy rivalling that of the Sovereign, the offence has much of the character of Treason. But still, since the obedience claimed for the religious Supremacy will, it may be supposed, be demanded through the means of a religious organization existing in the country itself, a Religious, will not differ much from a Political Sedition; except that the opinions by which the Seditious are bound together, will exercise their influence upon men's minds in a different way in the one case and in the other. The amount of the necessity for repressing a Religious Sedition of this kind, will depend much upon the nature of the rival Supremacy which is claimed. If what is asserted by the Party be merely a Supremacy in spiritual matters, Self-preservation will not require the State to suppress the Party; provided the State have such a control over the organization of the Party, as to confine the authority of the religious ministers to its proper spiritual province. This stipulation is necessary; for the influence of religious ministers is, in the course of human events, almost inevitably extended from spiritual to temporal concerns. And if, in consequence of the State having too little control over the religious authorities subordinate to the rival Supremacy, the spiritual Supremacy which is asserted, interfere with and overpower the temporal Sovereignty; the State must perish. We have spoken of a Sedition in general, as an Excrescence, which



diseases the body politic by drawing to it the nutriment which should support the bodily life. Retaining the same image, we may say that a Seditious Religious Party in the Social Body, is a Spiritual Excrecence ; which, though not immediately visible in a material form, may destroy the health ; as a vehement and ungoverned train of thoughts may affect the texture of the brain, and produce the most fatal disease.

§54. If it be questioned whether the State have the Right to take measures in order to repress a dangerous Religious Party, the question may be easily answered, on the principles already laid down. The State is the only Authority by which the Rights of citizens are realized and upheld. It may make this, its support of the Rights of its subjects, dependent upon any conditions which its own preservation requires. If there be a rival Spiritual Authority, the State may very reasonably demand from a citizen a renunciation of the rival Spiritual Power's temporal Authority within the national territory. If the citizen refuse to make such a renunciation, he has no injustice done him, if he be not allowed either the Right of property in land, or any other Right. For all these Rights exist only through that temporal Sovereignty which he refuses to acknowledge. If he will not give his Allegiance, he cannot justly complain that he does not receive Protection.

There is therefore no valid jural objection to the repression of a dangerous Religious Sedition. Whether there be, in any case, moral objections to measures of repression, arising from the harmlessness of the party ; or practical difficulties arising from the extent to which the Sedition has gone ; are questions to be decided by the circumstances of each particular case.

§55. If the Religious Sedition take the form of teaching Resistance to the Laws simply, without set-

ting up any definite rival authority, its repression is included in the common administration of the Law, and in the punishment of those who resist the law. But the possibility of such religious teaching, and the examples of it which have appeared, make it, if not an Obligation, at least a *Duty* of that State, to give to its citizens a religious teaching which may tend to prevent the prevalence of an opinion of the opposition of Religion and Law ; rather than to depend entirely on the measures which may be employed to repress the Seditions arising out of such an opinion. But the consideration of the Duties of States, and of the Duty of religious Education among the rest, will come under our notice hereafter.

860. One form of Error respecting Religion has been made punishable by most States, on the ground of its being an opinion dangerous to all government : namely, *Atheism* ; the Denial of the truth of all Religion, and therefore of all religious Sanctions of Morality. We have already shown (841) that all States have claimed, and must claim, the Right of exacting from men declarations in the most solemn form in which they can be given ; and the form employed has always contained a reference to the existence and providence of God. A man who denies, and teaches men to deny, the existence of God, may be considered, so far as he is successful, as setting up a Sedition which makes all continued Government impossible. But whether this Sedition is so dangerous as to require the Laws to make such opinions criminal ; or whether their prevalence and danger may not better be prevented by Religious teaching, of which we have spoken, as a Duty of the State ; will be better examined hereafter.

## CHAPTER III.

## THE MORAL CHARACTER OF THE STATE.

861. We have spoken of the State, as having Obligations ; and we have also referred to its Duties (473). The questions naturally occur ; since the Actions and Thoughts of States are necessarily compounded of the Actions and Thoughts of individual Persons, upon *what Persons* these Obligations and Duties fall, and in *what manner* ? We may make a few remarks on this subject.

862. The Governors of the State act for the State ; and upon them the Obligations of the State fall ; they fall upon the Sovereign ultimately ; but, in the first instance, upon the Officers and Magistrates of the State, who receive their Authority from the Sovereign, and are held by him to the discharge of their Official Duties. The Obligations of National Defence, of upholding the Laws, and of suppressing Sedition, all belong, in a general form, to the Executive Department of the Government (210). But the first of these Obligations, in its details, is devolved upon the Army and its Commanders ; the second, upon the Magistrates and Judges ; as is also the third ; and in some measure, so far as the prevention of Religious Sedition is concerned, upon the Religious Teachers of the Nation. The State Obligations fall upon the persons, who occupy these offices respectively, as Obligations, and therefore, as Duties. It is the Duty of the Sovereign to provide for the defence of the country ; it is the Duty of his Ministers, and of the Estates of the Realm, to advise and aid him in this purpose. It is the Duty of the Commander of the Forces to use, for this purpose, with his best ability, all the means which are placed in his hands : it is the Duty of every military

Officer and Soldier, according to his condition, to exert zeal, skill, and courage, in this cause. And the like may be said of the other departments of the State. It is the Duty of all Persons in Judicial positions, according to their position, to join in administering the laws ; and of all Magistrates and their Officers, to do their part in carrying judicial decisions into effect, and by other appropriate means preserving the Order of the Community. We have already said (278) that each man has the Duties of his Station ; and among the most distinct of such Duties, are those which fall upon each man, as his share in the fulfilment of the Obligations of the State.

863. The State has Duties as well as Obligations (474). Thus all States have Duties of Truthfulness and Honesty : they ought to observe their Treaties and pay their Debts. They have Duties of Justice and Humanity : they ought not to oppress or enslave the unoffending inhabitants of other countries. They have Duties of Self-culture : they ought to learn and to adopt true Moral and Political Doctrines. Some of these Duties will be acknowledged by all Moralists as Duties of States ; and thus, the moral character of the State as an agent capable of Duties, cannot be denied. States may act rightly or wrongly ; and hence their actions are subject to the Supreme Rule of Action, the distinction of right and wrong.

The Question then occurs, as we have said, Upon whom do the Duties of the State fall, and in what manner ?

864. It is evident that they must fall upon the Governors and Administrators of the State, for these act for the State. They fall upon these persons as Duties. It is the Duty of the Governors of the State to be truthful, honest, just, humane, rational, on the part of the State. But it must be observed, that this

is something different from the Duty of being truthful, honest, just, humane, rational, as individuals. The actions, by which these qualities are exerted, on the part of the State, must be the acts of the State, and not merely of the individual. The Governor of a State, in order that, on the part of the State, he may be faithful to the Treaties which the State has made, must be able to direct its armies and navies, to shape its commercial and fiscal regulations, as the terms of the Treaties stipulate. In order to be honest on the part of the State, he must be able to obtain, from the citizens, money to pay the State debts. In order to be able to put an end to acts of violence or oppression on the part of the State, he must be able to persuade, or to force those citizens to desist, who are concerned in such acts. In order that he may, on the part of the State, learn and adopt true Doctrines, he must be able to induce the other Members of the Government, or other Representatives of the Will and Thought of the State (if there be such Representatives), to join with him in the adoption of such Doctrines. The individual disposition, intentions, and convictions, of any man or set of men, whatever be their position in the State, are not necessarily those of the State itself. There is and must be a difference between what Statesmen feel and think, in their private capacity, and their sentiments and opinions as Statesmen. Their designs, as virtuous Statesmen, may be very different from their wishes, as virtuous individuals. For as virtuous Statesmen, they can design only such things as the State can perform with safety, consistency, and a due regard to the claims of its own subjects. A man who is truthful, honest, just, humane, and reasonable as an individual, will endeavour, if he be a Statesman, to be also truthful, honest, just, humane, and reasonable on the part of the State. But he will often find many impediments, which will prevent his

directing the acts of the State, in such a manner as to conform to the Duties of Truth, Justice, and Benevolence, and to the dictates of Reason. He has to overcome rooted habits, vested interests, ancient prejudices, and natural diversities of opinion, among those whose consent is necessary to action. He has to guide himself by a due regard to the past actions of the State, and the nature of its moral agency, as distinct from that of individuals. These are difficulties, not arising merely from accident, or from something wrong, but necessarily belonging to the nature of the case. For instance, if the humane Statesman finds that the citizens of his State hold in cruel captivity a population of predial slaves; he will wish and endeavour to abolish this slavery. But however absolute his power, he cannot do this by a word of his mouth, or a stroke of his pen; by a command, or a law. He must provide, for the owners of the slaves, compensation for the loss which they suffer by their emancipation. He must prepare the slaves for the safe exercise of their liberty. If he do not do this, he obeys the impulse of his humanity at the expense of justice, and in neglect of that prudence which is requisite for the right direction of his humanity. For to emancipate slaves, on grounds of humanity, by a law which should throw all the loss upon the owners, would be unjust: since the inhumanity of the previous law, which protected such property, was the sin of the State, and not of the owners. Moreover, slavery, as we have already seen (520), has existed, pure or modified, in many countries; and the perception of the inhumanity of the practice has been very slowly unfolded in men's minds. Where slavery exists, it is, by a large part of the community, regarded with favour, or with indifference. And this prejudice the Statesman has to overcome, so as to carry with him, in his views, the Representatives of the State, if the constitution of

the Country require that he should have their co-operation in his acts. And thus, the humanity of the Statesman, acting for the State, may often take a very different course, and especially, must often work in a more slow and gradual manner, than the humanity which belongs to him as an individual; and the same must be the case with other moral qualities.

865. And this is the case with those acts of a State which indicate a Moral Progress; so is it, also, the case with those acts which mark an Intellectual Progress. In these also, though the Statesman thinks, and reasons, and discovers, and adopts truths, for the State, he will often be compelled to adopt truths, on the part of the State, much more slowly, and much more imperfectly, than he himself acquires and professes them in his own mind. He may, in his own thoughts, see the truth clearly, and follow it rapidly; but the State, although in a great degree represented by him, will seem to lag behind him in the intellectual race; and cannot, in its public acts, display the intellectual clearness and quickness which may be shown by an individual. The State, from its nature, cannot do this; for the acts of the State are those in which the Members of the State, according to their respective positions, share, at least, by assent and sympathy, if not by joint action. And a number of persons can rarely, or never, participate in the clearness of mental vision, and agility of mental action, by which one man may pass on to new truths. However certain, and however demonstrable may be the new truths, they must require some time for their communication to the minds of many men. Repeated explanation, discussion, proof, may convey to the minds of many, that conviction, which was at first confined to one, or a few; but it can only be by degrees, that the conviction can take such hold of the members of the com-

munity, that it can be properly expressed by any act of the State, as *its* conviction.

866. Thus the judgment of the State as to what Doctrines are true, may differ very widely from the judgment of those who are, for the time, its Governors; and yet the Governors will rightly make their convictions of truth (so far as it concerns matters of State) become the judgment of the State, as soon as they can make it take this form by constitutional means. A Statesman, who has obtained a clear view of new and important truths, deeply affecting the morality and wisdom of public acts, cannot fail to wish to make these truths take their place, as grounds of the State's acts; he can hardly fail to introduce, into the acts which he has to perform on the part of the State, an assertion of or reference to these truths; and, if he acts in conjunction with colleagues, he will endeavour to convince them of these truths. But he knows that new Truths cannot, in one instant, become the principles of action of a Nation, nor even of a Body of men; and therefore, he is content to introduce the new Truths by degrees, into the conduct of public affairs. He is content that the State should act, in a great degree, upon principles which it has long recognized and assumed. He knows that the existence of a State is continuous; and that its Moral Character is, in like manner, continuous. Its acts must have a coherence. Its life is its History; and in its present acts, it must have a regard to its past history; so as not to interrupt the vital connexion of one period with another. The State may reform its conduct, and improve its views; and it may do this rapidly, and even suddenly; but it must preserve some identity through the change; else the State's moral agency vanishes in the supposed reformation. If each person, who successively occupied the place of Governor, might at once proclaim his own views, as the doctrines of the State,



the act would be of little or no value ; since the proclamation of to-day might be superseded by a contrary one to-morrow.

Thus there is, for States, as there is for individuals, a Duty both of Moral Progress and of Intellectual Progress : and these Duties, belonging to the State, fall upon the persons who administer the Government, as Duties belonging to them. But they do not fall upon them, in such a manner, that the Moral Progress and the Intellectual Progress of the State are to be identified with those of the individual. The Governors are to aim at a Virtue and a Wisdom on the part of the State, which are not merely their own personal Virtue and Wisdom ; which are shown in the Acts and Declarations of the State ; which belong to *its* agency, not merely to theirs ; which are parts of a national life, regulated by Moral Principles, directed to Moral Objects, begun before they had any share in State acts, and to be continued, on the same Principles, when they have ceased to live.

867. The Moral Character of the State has been generally recognized by Moralists, and has been expressed in various forms of language. In one of these forms, the State is described as having not only a Moral Character, but a *Conscience*.\* On this phrase we may take the liberty to remark, that it is not at all necessary in order to express any moral Truths belonging to Polity. We can speak intelligibly and fully upon all the Duties of the State, including the Duty of adopting and maintaining moral and religious Truths, without speaking of the Conscience of the State. And this expression is, in some respects, unsatisfactory ; for it appears to imply a false relation between the Duties of the State, and those of the individual on whom they fall. The

\* Vattel, *Law of Nations*. Prelim., § 21.

individual takes his share of the Duties of the State, as we have seen, knowing historically what the State has done ; and trying to make the State, for the present, act morally, so far as the coherency of its being will allow. And all the individuals who share in the acts of the State, have to act thus, with historical knowledge and moral intention. But there is nothing in this process which can with propriety be called the Conscience of the State. Statesmen are not *conscious* of the past history of their country, however they may be cognisant of it. The Statesmen of to-day are not *conscious* of the purposes and convictions of the State at the time of the Revolution. Men, contemporaries and successors of each other, may add together their knowledge, and may correct it by their discussions ; they may combine their intentions, and may thus carry out a common plan : but they cannot properly be said to add together their Consciences, and thus make a Common Conscience. We have indeed (368) spoken of the Common Conscience of mankind ; namely, the Supreme Law of Man's Being, which each man contemplates in his own Conscience : but we have also said (370), that we may more properly render the moral Ideas of Benevolence, Justice, Truth, Purity, and Order, than by speaking of Conscience. The Conscience of a Nation, if it be spoken of at all, must be conceived to be, like the Conscience of an Individual, the stage at which it has arrived in its advance towards a full possession of the Fundamental Moral Ideas. But the stages at which different individuals have arrived, in such an advance, must be very various ; and it does not appear that we gain anything by calling the result the National Conscience.

But in whatever way we express it, the State undoubtedly possesses a Moral Character ; and has

Duties, as we have intimated, of the same description as those of individuals:—Duties of Humanity, Justice, Truth, Purity, Order; the Duties of Moral and Intellectual Progress. These latter Duties, in the case of individuals, include, as we have seen (720), the Duty of Religious Belief. We shall have to consider, hereafter, whether the same be true with regard to the State. But we must first consider some of the other Duties of the State.

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## CHAPTER IV.

### THE SOCIAL CONTRACT.

868. WE have spoken of the manner in which the Nature of the State imposes Duties upon the Governors; we must now speak of the manner in which it imposes Duties upon the Governed. Of some of the Duties of the Governed, we also formerly spoke (383); namely, willing obedience to the Laws, an affection for the country, a love of its institutions and of its constitution; a loyalty to its Sovereign. That men shall possess such feelings as these towards the Government of their country, is a general Moral Rule, of great extent and great importance. But we have already stated (462), that in the course of the intellectual progress of mankind, Moral Rules require to be improved by a fuller development and elucidation of the import of the terms which they contain. We have already endeavoured (465, 486, 513) to unfold, for this reason, the conceptions of the State, Justice and Humanity: we must now do the same for the conception of *Government*; and for this purpose, must explain some of the views which have been successively taken by writers, of the Moral

Nature of Government, and the grounds of men's Duties towards it.

The view which we have already given of the foundation on which Government rests is this (94): that Government is a necessary condition of man's Moral Nature; for Government is necessary to the existence of Rights; and Rights are requisite to the existence of Duties and Virtues. Or as we have otherwise expressed it, that our Idea of Moral Perfection involves an Idea of Order (269): and that this Idea of Order cannot be realized, without fixed permanent external Laws, or Rules for human Actions. The Rules which the Idea of Order thus implies, are Facts external to the human Agent; but they are Facts requisite in order to mould his acts into a definite moral form.

869. But though the external Facts which embody the Idea of *Order* are thus requisite, in order that man's actions may have a moral form; there is something also requisite, in order that they may be Moral Actions: namely, an internal Principle of activity, *Freedom* to act (534). Without the Combination of these two elements, Order and Freedom, Moral Action cannot take place. And Government, which has it for its office to supply the element, Order, in this combination, must do so in such a manner as not to expel or destroy the element, Freedom. The external fact must not annihilate the internal act. The internal act must modify the external fact. Public Order and Individual Freedom must subsist together.

Thus Government, in order to be what it essentially is, a necessary Condition of man's moral agency, must include a Principle of Order, and also a Principle of Freedom. These two Principles are in some respects opposed to each other, and have been so considered, in the course of man's intellectual progress. We shall first observe some of the conse-

quences of this opposition, before we attempt to trace especially the development of the Ideas themselves.

These abstract Ideas, Order and Freedom, have been the Objects of sentiments in men which are described as the Love of Order and the Love of Freedom. Under the influence of these Sentiments, the affairs of various nations have been variously conducted; and the Conception of Government itself has been presented under various points of view. We must consider how these are related to each other.

§70. Since Government, as we have seen, includes an external Fact independent of man's Will, and an internal Will modifying the external Fact, it may be regarded mainly in the one or the other of these two lights: and thus have arisen two different, and in some respect opposite views, of the nature of Government, and of the Duties which relate to it.

One view represents civil Government as an *External Fact*, which men must take as they find it, and conform their actions to it, without having anything else to do with it. We are under a Government; we are to obey it; this is our Duty, and this is the whole of our business as subjects. The claims of Government upon our Obedience are universal and irresistible.

§71. This view borrows one of its main illustrations from a kind of Government which is undoubtedly an *External Fact* independent of our Will: which all men find, and must take as they find it; which is a universal condition of human nature, and claims obedience with irresistible power; namely, the *Paternal Government*. The child is placed by nature in the power of the parent. He obeys him, and must obey him, at least for some portion of life; and no one questions that he ought to obey him. The obedience, thus begun, is naturally continued through life, and extended to successive generations, as we know was the case in the early periods of society;

and thus was produced a Patriarchal Government. This, the natural and original form of Government, presents to us the true nature of Government : and other kinds of Government are to be explained and justified by their derivation from the *Patriarchal System*.

872. This view, or one nearly resembling it, is sometimes expressed in a different manner. Government, being an External Fact which we find universally annexed to our condition, by no agency of our own, is to be accepted as a part of the scheme of Providence, which we must not think of altering. It is a portion of the Divine Order of things, to which men must conform. Men's Duty of Obedience to their Civil Governors is their Duty of Obedience to the Will of God ; and hence, Governors have a *Divine Right*.

873. The opposite view to this looks not to the External Fact, but to the *Internal Fact*, the Will ; as that which must determine man's condition. His moral position must depend upon himself. He makes Government what it is ; and obeys it because he Wills to do so.

874. This view, again, borrows one of its main illustrations from a class of transactions in which a man does determine the circumstances of his condition by the acts of his Will ; and in which the External Facts which regulate his actions, do so because he chooses, and as far as he chooses, that they should do so ; namely, Contracts. A man may, by a Contract with other men, unite with them and bind himself to obey certain Rules mutually agreed upon ; and so long as the Contract stands, the Rules are binding. It is held, that Government may be likened to such a Contract, and that the Laws which the Government upholds, are binding in virtue of this likeness. Government is a special kind of Contract, the *Social Contract* ; and it is a Duty of

men to conform to the Rules of this Social Contract, because it is a Duty to fulfil the Covenants of all Contracts.

875. This view looks to the *Rights of Man as Man*; it recognizes the Rights of Government, not as anything Divine, or in any way different from any other Rights; but simply as a necessary condition for the establishment of other kinds of Rights.

876. The adherents of these opposite views of Government—the Patriarchal System, and the Social Contract—have attempted to apply their respective Theories to existing forms of Government. But both the one Theory and the other require to be much modified, before they can be made to agree with the circumstances of most of the States which history exhibits to us.

877. In scarcely any age or nation, have men accepted their Government as an Existing Fact, with regard to which they had nothing to do but to obey. The most absolute Governments of ancient and modern times, have, in some degree, approximated to such a condition; but even in these cases, there occur, from time to time, attempts to improve the Laws, revolutions which overthrow the Governors, and other manifestations that men cannot be prevented from exerting their own judgment, and their own will, in shaping their own circumstances.

878. Indeed, the image, which, as we have said, is the standard illustration of this view of the nature of Government, itself suggests that Obedience cannot be unlimited and interminable. For the child, when grown to manhood, though he may continue to treat with deference the commands of his parent, will yet have a will of his own; and will claim a right of acting for himself, in a large portion of his actions. The Patriarchal view itself leads us to ask, when the children of the State arrive at the independence of manhood.

879. Again : if we attempt to derive National Government from a supposed Original Patriarchal Government, we fall upon other questions, which show how impossible it is to apply this Theory in its simple form. When the Patriarch dies, upon whom does his power devolve ? Upon the eldest son ? or all the sons alike ? or sons and daughters ? or according to which of numerous other obvious Rules ? The choice among these Rules cannot be determined by the Patriarchal Theory, in its simple form. Obedience to an elder brother, and that, continued through life, is not at all a part of the natural and necessary order of a family, as obedience to a parent is. Nor does any Rule, on this subject, naturally and necessarily flow from the Theory itself. If, on the other hand, we say that the Rule of Succession is determined by tacit or express Agreement among the members of the Society, we thus admit, to a certain extent, the opposite Theory of the Social Contract.

880. Again : in the case of Usurpations and Revolutions, such as have happened in every country, when the family line of the Governors is broken through ; are we to reject all the subsequent actual Government, as not rightly derived from the Patriarchal System, and therefore wrongful ? Or are we to allow that long undisturbed Possession may obliterate the wrong of Usurpation ? If we take the former side of the alternative, the Patriarchal Theory is not applicable to any existing case of Government : for in all countries there have been Usurpations and Revolutions. If we take the latter side, we acknowledge a new element in the Right of Government, namely, long Possession, or Prescription ; and we shall have to make this, in almost every case, the predominating element.

881. Thus, the Patriarchal Theory cannot be applied to actual Governments, without such modi-



fications as render the Patriarchal Condition by no means the most important part of the Theory. And the same may be said of the Doctrine of the *Divine Right* of Government. For if we grant that the Rights of the Governors are Divine, as resting upon the Will of God ; we may still ask *what* Rights are included in the Rights of Governors, and in *what persons* these Rights reside. These questions are in no degree answered, by calling these Rights, Divine Rights. To which we may add, that there appears to be the same reason for calling the Rights of the Subjects, as those of the Governors, Divine.

882. But the opposite Theory, that of the Social Contract, offers no less difficulty, when we attempt to apply it to the greater part of actual Governments. For it is not true that, in any actual social condition, the circumstances of men, and the Rules which they obey, are those which have been determined by their own Will. In some of the cases, in which men have freely combined to found a new and independent Colony, some approximation to this condition may have occurred ; but even in those cases, the relations among the Colonists, and the Laws by which they are bound, are determined, in a considerable degree, by their position in the States of which they were previously subjects ; and take their course independently of the Will of individuals in the Colony. And in the usual conduct of nations, it is not true that a man, by his own acts, determines all the circumstances of his social condition. Man is really, as those assert who borrow their illustration from the Family, born, fostered, taught, and governed, with little or no regard to his own will. And even in respect to Civil Government, the greater part of the circumstances of a man's condition exist before him, and independently of him : for example, the institutions, the laws, the customs, the character of the nation, in which he must

share, and by which his own habits and actions are mainly regulated. And his Relation to the Government being determined by these External Facts, and not by himself, it seems to be a groundless and inapplicable fiction, to speak of that Relation as founded upon a Contract, to which he is a party.

883. The Assertors of the Theory of a Social Contract have sometimes replied to this objection, by a further assertion; that a man, by continuing to live under a Government, after he arrives at manhood, gives his tacit consent to the Contract by which the Government is established; and is, therefore, bound by its Laws. But this answer leaves abundant room for other questions; as to whether such a tacit consent may reasonably be assumed; and if so, at what period, and under what conditions; and further and especially, what are the terms of the asserted Contract? And, upon the answers to these questions, will depend all the important Doctrines which concern the Rights of the Governors, and of the Governed; and, the theory of the Social Contract, if it be retained in discussing these questions, is little more than a form of expression which leads to no peculiar results.

884. The same may be said of the other forms of expression, which are used to convey the same views. Thus if it be said that the Rights of Government must be regulated by the *Natural Rights of Man*; the question still recurs, *What* are the Natural Rights of Man? We have already (508) stated, that all which have been called Natural Rights are so far limited and modified by the Laws of State, that they cannot be treated as universally Natural Rights. The Rights of Man, in each State, are determined by the Laws of the State; and although, as we have also attempted to show (514), Humanity requires that States and men should constantly endeavour to extend to all men the Cardinal

or Primary Rights of Man : this Principle will, in a very small degree, aid us in determining the Duties of Subjects towards Governments.

§46. Thus the Theory of the Patriarchal nature of Government is, both by the analogy of the Family itself, and by the universal course of human action, compelled to admit a Principle of Freedom ; and the Theory of the Social Contract must include family ties, established institutions, tradition, and assumed consent, as Principles of Order. Each of these Theories is drawn towards the other, in the attempt to make it correspond with the actual condition of nations.

§46. But though the doctrine of the Social Contract has no advantage over the rival Doctrine, as a Historical Theory, it may be a convenient form for the expression of Moral Truths. And this it may be, if we can answer satisfactorily the questions, which convey the objections to the Theory ; namely, What are the terms of the Social Contract ? under what conditions the consent of men to this Contract may be assumed ? and the like.

§47. We must, however, recollect, that though we may find convenient modes of stating and discussing Moral Truths, by speaking of the Social Contract, as the ground of the Rights of Government ; yet that, in fact, Government has Rights which no Contract among the subjects could give. We have already (§46) described these Rights as State Rights ; and have shown that they cannot be bestowed upon the Government by any agreement among the individuals of which the nation consists ; namely, the Right to the National Territory ; the Right of Making War ; the Right of Capital Punishment ; the Right of Imposing Oaths. These Rights are Articles in the Social Contract ; but they are Articles such as no Contract among individuals could contain. It is not because it is *A Contract*, but because it is *The*

SOCIAL CONTRACT, that the Foundation Deed of Human Societies contains these Covenants.

We may now proceed to consider the Questions above stated : What are the Terms of the Social Contract ? and the like. We may observe that English Writers very generally speak of the Social *Compact* instead of Contract, but in exactly the same sense.

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## CHAPTER V.

### THE SOCIAL CONTRACT IS THE CONSTITUTION.

888. BEFORE we attempt to determine what are the terms of the Social Contract, since we are to use the expression for the purpose of expressing moral and political Doctrines, let us consider what Doctrines it has commonly served to express.

The most noted instance in which this Contract was referred to, was in the Vote of the Houses of Lords and Commons of England, which deposed James the Second, declaring that he had "broken the Original Contract between king and people." And this case exemplifies the purpose for which the phrase has generally been used in this Country ; namely, to express that there are cases in which the subject's Duty of Obedience is annulled, and resistance to the Governors becomes justifiable. When this is alleged to have happened in consequence of some violation of liberty or justice by the Governor, he is said to have "broken the Original Contract." And this phrase serves well to express, in a plain and forcible manner, the condemnation of the transgression, and the steps which it is held to justify.

889. For the breach of a Contract is an offence

on which all men look with hatred and anger ; and when a Contract is broken, in a fundamental manner, by one of the parties, the Obligation of the other party to perform his share of it ceases. Those who have to speak for the People, want to say, that the King's crimes have made Obedience cease to be a Duty of the People ; and they cannot say this, in any more intelligible or plausible way, than by saying, that the King has broken the Original Contract of King and People.

890. But this language, when used as a justification of Resistance to the Governors by their subjects, has this disadvantage ; that while it refers to general Rules of Law, it makes one Party the Judge in their own case, which is against all Rules of Law. For if the People allege, against the King, a Charge of Breach of Contract, they ought to bring the case before some Tribunal where justice may be done to both Parties. And if, before this is done, they resist the King's authority, he may, with at least equal plausibility, charge the offence of Breach of Contract upon them. They may charge him with Tyranny, and he may charge them with Rebellion ; and these charges are not made more intelligible by calling them Breaches of the Original Contract.

891. It may be of use to recollect here what was formerly said (414) of Cases of Necessity ; of which Rebellion, justified by Tyranny, is one. We cannot lay down beforehand any exact moral Rules for such cases, nor is it desirable to do so. We have already said (413), that we cannot define the circumstances of Cases of Necessity, because they must be those in which a good man does not violate the general Rule without great struggle and reluctance. For (to repeat the arguments there used), if we were to define beforehand the conditions under which Resistance to Governors, and Rebellion, are proper, and were to give Rules for such cases ; those who

accepted our Rules would, when the occasion arrived, take the course of Resistance and Rebellion without reluctance or compunction ; and even before the time came, would be inquiring whether they had arrived at a point where they might cast off the Duty of Obedience and the Affection of Loyalty. And further, when these Cases of Necessity arrive, men are not calm and tranquil enough to apply Rules of action ; and would, in practice, pervert any Rules which we would give. We cannot pretend to give a Formula for the justification of Rebellion ; and the phrase of the King having broken the Original Contract, so far as it is merely a Formula, cannot be a justification ; although, if there really be a justifying necessity, this phrase may serve to express it.

892. Since we are thus compelled to abstain from laying down Rules for Cases of Political Necessity which justify Resistance, it may be allowable to illustrate, by example, the manner in which such cases are to be regarded. I will take, as my example, the writings of a very able man who considered himself compelled, by the necessity of the case, to join in the Resistance to Charles the First, namely, Philip Hunton. He wrote a Book "On Monarchy in General ; and the Monarchy of England in particular ;" and in this, among other points, he treats of the question of Resistance to the Monarch rendered necessary by his transgressions. He does not employ the phraseology of the Original Contract Theory, which at that time had not become familiar. But he discusses the Question, which, in that or any other form, is one of extreme difficulty : Who is to be Judge when the Contract is broken ? As he states the question, it is, "Who shall be Judge of the excesses of the Sovereign Lord in Monarchies of this composure ?" that is, in Mixed and Limited Monarchies. In reply, he says, that this cannot be the Monarch himself, for then you destroy the frame

of the State, and make it absolute; since to bind a Prince to a Law, and to make him the Judge of his deviation from that Law, is to absolve him from all Law. Nor can the Community and their Deputies be the Judges in such a case; for then we put the Supreme Power in that body, and destroy the essence of the Monarchy: for the Ruler is the immediate Minister of that Power to which he is accountable for his actions. "So that," he says, "I conceive in a limited legal Monarchy, there can be no stated Judge of the Monarch's actions, if there grow a fundamental difference between him and the community. But you will say," he adds, "it is all one way to absoluteness to assign him no Judge, as to make him his own Judge." Hutton answers, "I say not simply in this case there is no Judge? but that there can be no Judge legal and constituted within that frame of Government: it is a transcendent case beyond the provision of the Government, and must have an extraordinary Judge."

893. He then proceeds to deliver his own judgment on such a case; which is this: "that if the transgression of the Sovereign be of lesser moment, it is to be borne by public patience, rather than endanger the being of the State by a contention between the Head and Body politic. But if it be mortal, and such as, suffered, dissolves the frame and life of the Government, and Public Liberty; then the illegality and destructive nature is to be set open, and redress sought by Petition; which failing, the author pronounces that "prevention by Resistance ought to be." But yet he once more repeats his cautions and preliminaries: "First, that the case is such, must be made apparent: and if it be apparent, and an appeal be made *ad conscientiam generis humani*, especially of those of that community, then the fundamental Laws of that Monarchy must judge, and pronounce the Sentence in every man's Conscience ;

and every man, as far as concerns him, must follow the evidence of truth in his own soul, to oppose or not to oppose." This power of judging in such a case, he adds, implies no civil superiority in those who judge; being, not authoritative and civil, but moral; belonging to us, not as citizens, but as reasonable creatures.

894. I have made these quotations from Hunton, because it is desirable to show how far the struggles of mind of a conscientious man, in a particular case in which resistance to the Government seemed to become necessary, are removed from the familiarity and positiveness with which Rules of such cases, in the general form, are sometimes laid down, by writers of Morals. Hunton's judgment, that, under the English Constitution, resistance to the Sovereign might become necessary, has the more weight, because it is combined with a strong admiration of the "Architecture" of the English Constitution; "whereof," he says, "I must declare myself to be so great an admirer, that, whatever more than human wisdom had the contriving of it, whether done at once, or by degrees found out and perfected, I conceive it unparalleled for exactness of true policy in the world." His grief at the necessity of discussing such questions is strongly expressed. "O let no Son of this State," he says, "account it presumption in me, for putting in my judgment, and speaking that which I conceive might, if not remove, yet mitigate this fatal distemperature of our common Mother: at another time, perhaps, it might be censurable, but in this exigence, laudable."

895. We conceive, then, that Cases of Resistance to Government are Cases of Necessity; and as such, Cases for which no Rule can be given. The use of the phrase "Original Contract" does not enable us to give any special Maxims on this subject. Still, as we have seen that the object of the



Social Contract was to secure Order and Freedom, we may say that the Resistance may be used when it is necessary to preserve the Order and the Freedom which are guaranteed by the Social Contract.

This leads us again to inquire what the terms of the Social Contract are : but before we answer this question, we shall consider another purpose for which this, or equivalent phrases, are employed.

896. Such phrases have, in modern times, been used in the Preambles of various Codes of National Law ; and especially in the Prefaces to the Constitutions of the States of North America. Thus, the Constitution of New Jersey begins by declaring that "All the Constitutional Authority ever possessed by the kings of Great Britain over their dominions was by Compact derived from the people, and held of them for the common interest of the whole Society." The Constitution of Connecticut declares that "all men, when they form a social Compact, are equal in Rights ;" and the Constitutions of some of the other States have like expressions. Now here it is plain, that the word "Compact" is employed in order to conciliate to the Law the regard of men fond of Freedom. The Lovers of Liberty can readily obey a Law which is a Compact among themselves ; though they would resist with indignation a Law imposed by another. And accordingly, the Laws, which are thus prefaced, are rigourously enforced, without exciting any discontent among the freemen of North America.

897. Now if, in these instances, we inquire what are the terms of the Compact which is thus spoken of, the answer will evidently be, that the Compact is the *Constitution* itself, of which we have quoted the introductory phrases. The written Constitutions of the respective United States, which thus begin by speaking of a Compact, by which Civil Society is held together, do themselves contain the Articles of this Compact. In these Cases, we have

the Social Contract in a distinct, manifest, and compendious form.

898. Further; it is plain, that in these cases the Social Contract is not merely, like the Original Contract of the Act which deposed James the Second, a Contract between the King and People. Nor is it a Contract between the Governors and Governed; for the Governors, in such Constitutions, cannot be looked upon as a separate party. The Contract is a Compact among the Citizens in general, expressing the political relations of each to each. It is a Contract between every man and all others within its compass. And accordingly, this is expressed in the Constitution of Massachusetts: "The body politic is formed by a voluntary association of individuals. It is a Social Compact by which the whole people covenants with each citizen, and each citizen with the whole people, that all shall be governed by certain Laws for the common good." The Social Compact, that is, the Constitution, determines the Rights and Obligations, not merely of the Governors, but of all persons and all Classes: at least so far as the Fundamental Rules and Maxims of Rights are concerned.

899. But since, in these States, the Terms of the Social Contract, concerning which we were inquiring, are to be found in the Constitution, we must, for the like reasons, look for the Terms of the Social Contract of any other State in *its* Constitution, that is, in the Collection of the Fundamental Rules and Maxims of Rights, and especially of Political Rights (210). For that the Constitution of any Country has not been authoritatively promulgated in a compendious written form, but is to be gathered from various Sources, in various forms, does not alter the nature of its obligation. If the Social Compact of New England be its Constitution, the Social Compact of Old England must be its Constitution.

The Constitution is, in each case, the Collection of Fundamental Rules and Maxims of Rights, and especially Political Rights: in each case, it is the Common Understanding by which the Laws of Order and Freedom are bound together.

900. Thus the Social Contract, being the Constitution of the Country, is different in different Countries, and in all, contains a great number of Articles and Clauses. The Social Contract is not merely some one or two Maxims, respecting Protection, or Property, or Personal Liberty, or the like. It is a wide and complex collection of Arrangements and Provisions for defining and securing to men their Rights. The security of the Rights is the *object* of the Contract; the Contract itself is the Collection of Arrangements and Provisions.

901. Moreover, if some one of these Articles or Clauses be violated by any party, the Contract is not thereby annulled. For all the other parties, it is not even disturbed; and the party who is guilty of the breach of Contract is not necessarily to be punished by declaring the Contract void for him; but is to be judged by the rest of the community; and visited with penalties provided by the Constitution itself; or else, with inflictions devised for the exigence of the occasion.

902. And this is the manner in which the Social Contract has been understood in this Country, even when it has been referred to in seasons of Resistance and Revolution. In the deposition of James the Second, though *he* was deposed as having broken the Original Contract of King and People, still the Original Contract, which gave the Houses of Parliament, and the Magistrates of the Land, their Authority, was looked upon as undisturbed; and all parties, except the King, retained and exercised the powers of their Stations. The English Constitution, like that of Massachusetts, of which we have quoted the

description (898), was held to be a Compact by which each citizen covenants with the whole people, and the whole people with each citizen ; and those who had adhered to their Covenants were still entitled to all the benefit of the Compact.

903. This view of the Constitution of each Country, as a Compact among the citizens, by no means tends to diminish the reverence and affection towards it, which we have stated to be one of the Duties of a citizen (329). Even a common Contract is, to a moral man, an object of most careful fidelity and respect ; and to a religious man, an object of religious reverence ; it is *sacred*. But the Social Contract is *not* a common Contract. It is a Fundamental Contract, by which all the Rights of men are defined and secured, all the most important and dearest social relations protected. It is a Contract with the whole body of our Community, dictated by the universal voice, devised or assented to by all the wisest and best of our Countrymen. Whether it be the result of the wisdom of man, or of the wisdom of ages, that is, of the good guidance of Providence, it has made our Country, and all that we value in it, what they are. Whatever were its origin therefore, the Constitution of our Country is a worthy object of our fidelity, reverence, and affection.

904. This also is recognized in the States of North America. Thus the Constitution of Rhode Island says : " In the words of the Father of his Country (Washington), we declare that the basis of our political Systems is the Right of the People to make and alter their Constitutions of Government : but that the Constitution which at any time exists, till changed by an explicit and authentic act of the whole People, is sacredly obligatory upon all." And in accordance with this feeling, the Members of the General Legislatures, and of the respective State

Legislatures, and all Executive and Judicial Officers, swear to support the Constitution of the United States, and also the Constitution of their respective States. With what reverence and love the Constitution of England has been looked upon by Englishmen, in general, it is not necessary to say.

905. Thus, the description of *the Constitution of the Country as its Social Contract*, serves to express the Doctrine that all Members of the State have mutual obligations which they may incur heavy penalties by violating. It expresses this in such a manner as to conciliate the good-will and assent, both of the Lovers of Order and of the Lovers of Freedom; and without any tendency to diminish the reverence and affection with which the Constitution is regarded.

Before we quit this subject, it may be proper to notice some of the objections which are sometimes urged against the Doctrine of the Social Contract.

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## CHAPTER VI.

### OBJECTIONS CONSIDERED.

906. It is proper to consider the arguments which Paley has urged against the Doctrine of the Social Contract in his *Moral and Political Philosophy*, both on account of the currency and authority which that work possesses; and also, in order that we may thereby further explain the effect of the Doctrine: and may compare it with the Doctrine which he propounds as fit to supersede it, namely, the Doctrine that the foundation of Government, and of the Duty of Obedience to it, is Expediency.

907. Paley's principal arguments against the

Doctrine of an original Compact are: that such a Compact is not a Fact; and that if not a Fact, it is nothing: that if it were a Fact, yet that the Compact, as it affects the generations after the origin, can be of no force, because the subjects of States in our generation are not conscious of such a Compact, and have had no liberty of assent or refusal with regard to it.

908. To the first objection, we reply, that even if the Original Compact of Society be not a Fact, it by no means follows that the conception of such a Compact, as the Result of Facts, and the Source of Duties, is of no value. There are several such conceptions which, though not historical facts, are appealed to by moral and political writers, as valuable moral realities. When we say that the Governors are *Trustees* for the benefit of the Governed, or that all Property is a *Trust* for the benefit of the Community, it might in like manner be objected, that no Deed of Trust was ever executed in such cases, and that Kings reigned, and Proprietors held their possessions, before any such views were taken of their tenure. But still, the doctrine that Sovereignty and Property are Trusts, is held by Moralists to be highly important; and is the source of Moral Maxims which cannot be so distinctly conceived, or so clearly expressed, in any other way. And in like manner, the Doctrine that men are held together in Society by a Compact, even if we cannot point to any event, recorded or conjectural, as the Original Transaction by which the Compact was made, may be a very important and necessary moral and political Reality. And it is so; since it expresses, in one phrase, the mutual relations of the Governors and the Governed, and of all classes one with another; the reciprocal Character of their Rights; the possibility of the obligations of one party ceasing, in consequence of some act done by another party; the Duty of fidelity

and respect to the Constitution ; and the condemnation of those who violate or disregard such Duties.

909. But we reply further : that the Original Compact *is* a Fact, if we accept, as the terms of the Compact, those Principles of Polity, those fundamental Political Laws and Maxims, which have been generally accepted and approved in all ages of the history of the Country ; and which, though occasionally forgotten or transgressed, have constantly resumed their authority, when the influence of force or party interest was removed. The aggregate of such Laws and Maxims, in other words, the Constitution of the Country, *is* a Fact ; and has always been so regarded ; not by theoretical writers only, but by men accustomed to deal with Facts ; by lawyers, statesmen, and Englishmen of all classes. Whatever doubts may exist, with regard to some of the Rules and Maxims so asserted, it is plain that such a set of Principles have, as a Fact, existed in the Collective Mind of the Country ; as appears by the Constitution having grown out of them. And if it be urged, as an objection, that the Maxims which make up the Constitution have been adopted in succession, as the result of struggles between conflicting parties, and different Classes in the State ; we reply, that this is so far from showing that there is no Social Contract, that it gives to the result still more the character of a Contract ; for in other Contracts, also, it constantly happens, that each party to the Contract recedes from its original claims ; and the conditions of the Contract are different from the pretensions put forward on either side, in the course of the negotiations.

The Social Contract therefore, which we assert as a moral Doctrine, is not to be rejected because it is not a Fact in the sense in which the objector requires it to be so, namely, a single Historical Fact ; and it

is a Fact, so far as is requisite for the purpose of its being a true Moral Doctrine.

910. But it is further objected by Paley, that the Doctrine of a Contract is false and useless, because men in general have not actually given their consent to the fundamental Rules of the Government under which they live, and have had no opportunity of giving or refusing such consent.

911. In order to determine how far this objection is valid, we must consider what the analogy of Contracts in general teaches us, with regard to consent which may be supposed or implied, though not actually given. Now on this subject, we have not the smallest need to follow any other teaching than that of Paley himself, in order to assert an Original Contract. In speaking of the Administration of Justice, he says, "The law of nature, founded in the very constitution of human society, which is formed to endure through a series of perishing generations, requires that the just engagements a man enters into should continue in force beyond his own life ; it follows that the private Rights of persons frequently depend upon what has been transacted in times remote from the present, by their ancestors or predecessors, or by those under whom they claim, or to whose obligations they have succeeded." But this, which he here asserts of *private* Rights, may, with exactly the same reason, be asserted of *public* Rights. Public Rights and Obligations, no less than private, may depend upon what was done by our predecessors, and upon their Rights and Obligations. And the examples which he offers, further show this. They are such as these : the questions which arise between Lords of the Manor and their Tenants ; between the King and those who claim Royal Franchises ; questions of Tithes ; and the like ; which, as he says, depend upon ancient Grants and Agreements. "The appeal," he adds, "to those grants



and agreements is dictated by natural equity, as well as by the municipal law." This is asserting, in the most decided and extensive manner, that the present generation are bound by Contracts to which they have given no actual consent. But further: he asserts this, even of mere hypothetical Contracts. "Concerning the existence," he says, "or the conditions of such Old Covenants, doubts will perpetually occur, which give employment to the Courts of Law."<sup>2</sup> But having taken the case in which the present generation are required to allow themselves bound by ancient Contracts, of which the existence or the meaning are doubtful, does he declare the supposition of such Contracts to be absurd or useless? By no means. On the contrary, he assigns this as a reason (among others), why the general precepts of Morality are not sufficient guides for the business of life, without our having Courts of Justice besides. And for the like reasons, and in the same manner, we maintain that the general Principles of Political Morality, whether we state them as Order, Liberty, and Justice, and the like, or with Paley, as Expediency, are insufficient to point out the boundaries and the force of Political Rights and Obligations, without referring to a Court of Natural Jurisprudence, which deals with these as the Conditions of an Ancient Covenant, to be made out by a calm estimate of the evidence which Law and History offer us.

§12. We have stated it, as among the advantages of the Doctrine of a Social Contract, of which the terms are the Articles of the Constitution, that this Doctrine harmonizes well with the love and reverence for the Constitution which are among our Duties. And accordingly Paley, while he is rejecting the Doctrine, rejects also these Duties. He says,

<sup>2</sup> Paley is, in this part of his work, speaking of the necessity of Courts of Law. Book vi, chap. 8.

truly, that the original conditions of the Social Compact are understood to be the fundamental laws of the Constitution. He rejects the notion of such fundamental laws, as having any peculiar force; and speaks with slight of those who "ascribe a kind of transcendental authority or mysterious sanctity to the Constitution, as if it were founded on some higher original than that which gives force and obligation to the ordinary Statutes of the realm, or were inviolable on any other account than its intrinsic utility." Now the persons who have ascribed an exalted authority to the English Constitution, have spoken of it with reverence, and have defended it as inviolable, are all the greatest statesmen, lawyers, and patriots, who have adorned this country; and in proportion to their ability, their legal knowledge, and their patriotism, they have been copious, earnest, and pointed, in appealing to the principles of the Constitution as something of paramount authority and value. They have ascribed to the Constitution, not so properly a "mysterious sanctity" which Paley speaks of, as a moral sacredness: and we have seen the Americans, in the midst of their most emphatic assertions of their liberty, have done the same thing. When a writer is thus led by his doctrines to speak contemptuously of the emotions of moral reverence and affection which have thus prevailed for generations, in the nation and the race, he cannot be, to them, a moral teacher; and as far as he gains their attention, he can only perplex them. If we are to accept a doctrine which tells us that no special reverence and authority belong to the Constitution, we must suppose all our public Jurists, from Fortescue and Coke to Blackstone and Burke, to have had confused and superstitious notions of the English Government. And if the study of English Law and History leaves so wide a space for practical error in its most diligent students, we can have little trust in

the permanence of any new doctrine on such subjects.

913. There are two other objections urged by Paley against the Doctrine of an Original Compact;—That if such be the ground of Government, despotic Governments can never be changed or mitigated, because Despotism is in the Compact, and the Subject is bound by it; and thus in this Theory, recourse to arms for the sake of a better constitution cannot be justified:—and again, That since every violation of the Compact destroys it, this Theory offers ready arguments for reposing obedience to Government, and “has in fact always supplied the factious with a topic of seditious declamation.”

914. To the first of these objections, we reply, that the laws of no State allow the citizens to have recourse to arms for the sake of bettering the Constitution; that our Morality does not give Precepts for such armed attempts at improvements; and that a system of Morality which lays down, for the citizens of States in general, rules contradicting the Laws, cannot be fit for the general guidance of mankind. If an English Moralist might go into any State which he deems Despotic, and preach to the citizens the duty of bettering the Constitution by an armed insurrection, English morality would be rejected by the Moralists of all other countries, as inconsistent with Order and Humanity. Not that we allow that despotic Governments are never to be improved; but they are not, as a general Rule, to be improved by armed insurrections, but by improving the condition of the people; by promoting the moral and intellectual culture of the Governed and of the Governors; by strengthening all the elements of the Constitution which contains a germ of Liberty; (for almost all Governments, however despotic, have such elements). By such courses, despotic Governments, and all Governments, may be improved, without any contradic-

tion of the Social Compact. For the Social Compact, according to all moderate interpretations of it, is not an unchangeable Rule ; but is capable of modification from age to age, by constitutional proceedings ; changes so produced being understood as changes in the terms of the Compact, made with the consent of the parties. In the progress of improvement, violence and resistance may occur ; yet violence and resistance can never be justified as results of general Moral Rules, but only as the resource in a case of necessity which forms an exception to general Rules.

915. As to the objection that the Doctrine of a Social Contract offers, and has supplied, ready arguments for Sedition, this is no more than inevitably belongs to every doctrine which recognizes Civil Liberty as an important object. If every obnoxious proceeding of the Governors of a State may be represented as a violation of the Social Contract, it may also be represented as a violation of Natural Justice ; and in whatever manner the consequences of Natural Justice are described, the description may be used as a means of inflaming seditious dispositions.

916. It is by no means true, that the Doctrine of the Social Contract has been *especially* used for purposes of sedition or rebellion. When it was brought into prominence at the Revolution in 1688, it was used to justify resistance to the Sovereign in a case of necessity, and not as a general Rule. Those who, in modern times, have most freely urged the Right of Resistance to the Government, though they may have occasionally spoken of a Social Contract, have not really applied the Doctrine. They have not usually dwelt upon any special transgression of the Governor, as a violation of the Compact dissolving its tie ; but have commonly denied and

derided the Authority of those ancient Laws and Maxims in which we read the Contract.

§17. How far the Doctrine of an Original Contract is from being "captious and unsafe," as Paley calls it, may be seen by the mode in which its adherents in this country have employed it since 1688. One of the most prominent of the occasions on which this was done, was the prosecution of Dr. Sacheverell for seditious doctrines in 1710, the prosecution being managed by the leaders of the House of Commons. These Managers all took occasion to speak of the Foundations of Government; and they all agreed in putting forward, in the most distinct and emphatic manner, the doctrine of an Original Contract. It may suffice to quote one of them. "The nature of our Constitution," said Mr. Lechmere, "is that of a limited Monarchy, wherein the supreme power is communicated and divided between Queen, Lords, and Commons, though the Executive power and administration be wholly in the crown. The terms of such a Constitution do not only suppose, but express, an Original Contract between the Crown and the People; by which that supreme power was, by mutual consent, and not by accident, limited and lodged in more hands than one. And the uniform preservation of such a Constitution for so many ages without any fundamental change, demonstrates the continuance of the same Contract. The consequences," it is added, "of such a form of Government are obvious. The Laws are the rule for both; the common measure of the power of the Crown and the obedience of the Subject." It was added, that "if the executive part endeavours the subversion and total destruction of the Government, the Original Compact is broken, and the Right of Allegiance ceases: that part of the Government thus fundamentally injured hath a right to save or recover that Constitution in which it had an original

interest." But such a breach of Contract is not contemplated as a general or ordinary case ; but as an extreme case ; a case of necessity ; a case about which no rules can be laid down, and which can never be drawn into precedent, except in a case of the like necessity. The doctrine of the Original Compact, put forwards in this case by Lord Somers and all the most zealous lovers of liberty of the time, showed no traces of the seditious tendency which Paley ascribes to it.

918. Burke quoted these passages at a later period, in his "Appeal from the New to the Old Whigs," in order to show that the lovers of freedom in England had always asserted the cause of freedom in this measured and balanced manner, and thus to justify his own consistency in doing the same. And he himself, also, refers to the Social Contract as the Foundation of Government. Thus he describes the succession of the crown as "derived from an authority emanating from the Common Agreement and Original Compact of the State, *communi sponsione reipublica* ; and as such, binding on the king and people too, so long as the terms are observed."

919. The absence of any tendency to foment sedition or rebellion, in the Doctrine of the Social Contract, will further appear if we compare it, as Burke did, with other Doctrines which prevailed at the time of the French Revolution ; and which represented the People as the source of Political Power. To this representation, Burke replied, that if by "The People" be understood the mere assemblage of individuals without any social organization, laws, or magistrates, the term describes something so vague, obscure, and arbitrary, that no intelligible proposition can be asserted concerning it. "The People," so understood, has no means of collecting or delivering its convictions and intentions : it has no Rights, not even a Right to the soil on which the individuals happens to be living. An assumption is

commonly made, by those who thus put forwards "the People," that the numerical majority of the People are to act for the whole : but the assumption that a numerical majority of an assemblage shall decide or choose anything, is altogether arbitrary. The Rule of a majority governing a minority, is a creature of civil society, not the origin of it. The Rule is entirely artificial ; is learnt only by early training ; and when applied, is applied with arbitrary limitations ; for instance, with the exclusion of women and children. A far more natural mode, for a rude nation to act and decide, is to follow their Natural Aristocracy ;—those whom their character, and property, and history, and habits, and education, have made most fit to lead, and have disposed others to follow them.

920. Thus the doctrine, that Political Power is bestowed by the People, cannot be realized without assuming some organization natural or arbitrary. In order to bestow power, the People must have some mode of assembling, debating, and voting ; and this is, to have, to some extent, a Government, for the form of which we still have to find reasons. If we resolve the nation into its counties, or its parishes, we shall still have to give reasons for the boundaries which we thus draw, and for the officers whom we assume to exist : and our reasons will necessarily be drawn from history and usage, not from the choice and will of the existing individuals. And thus we are brought, in the partial elements of any possible national act, to conventions which must govern men, though not made by themselves, but transmitted from previous generations. And thus, if we reject a National Social Contract, such as we have spoken of, namely, an historical Contract into which we are born ; we are driven to a Provincial or Parochial Contract of the same description. And if we were to reject these conceptions as artificial, we should resolve society

into Families, in which men unavoidably exist under relations into which they are born, and which they have not selected by their Will ; and which yet imply both obligation and duty. And thus the Conception of " the People " as the Source of Government, in order that it may be in any degree distinct and applicable, must be moulded into form by means of the two Principles which we have stated as the grounds of Rights and Obligations ; the Relations arising from circumstances of Birth ; and Relations which are of the nature of Contract.

921. Having considered the objections commonly urged against the Doctrine of a Social Contract, I shall make a few Remarks on the assertion that the sole foundation of Government is Expediency, or Utility : that it is to be upheld solely on the ground of the Benefits and Advantages which it produces to men. In reference to the latter statement, we may assent to it, with this explanation, that if we are to support Civil Government on account of the Benefits it confers, the nature of our support must correspond with the nature of the Benefits : as the Benefits are moral Benefits, the support must include moral Affections. The Benefits which Civil Government confers upon men (if that expression is to be used) are, that it is the Source of Order, Freedom, Justice ; the necessary condition of Rights, and therefore of Duties and Virtues. That anything is the source of *these* Benefits, is certainly abundant reason for supporting it ; and so long as the nature of the Benefits which Civil Government produces is borne in mind, we may be content to say that it depends for its claims upon these. We have endeavoured to show that it produces these Benefits by being of the Nature of a Contract among men ; but whether this be assented to or not, it may suffice for our moral reasoning, if Government be regarded as the necessary Condition of all Duty and all Virtues.



922. In this sense, we might also allow that the foundation of Government is its Expediency, or its Utility. But as we have already said (555), when men rest their approval of any general rule or principle on its Expediency, or its Utility, they commonly mean to put out of sight all differences in the value of the *objects* for which things are expedient or useful. When a man says that it is *expedient* to speak the truth, we suppose that he considers truth and lying to differ *only* in being more or less expedient. Now this mode of speech cannot satisfy the purposes of Morality. We cannot be content to say that we support Civil Government for its Expediency, when we mean that we reverence it as the necessary condition of man's moral being. We cannot be satisfied to talk of the Utility which results from the existence of Government, when we must include, in our notion of Utility, Order, Freedom and Justice.

923. The unsatisfactory effect of the language applied to this subject by Paley is, I think, generally felt. For instance, when he discusses the question of the Right of Resistance to Government, he expresses himself in a mode which has startled most of his readers. On this question, his sentence is: "That the established government is to be obeyed so long as it cannot be resisted or changed without public inconvenience, and no longer." And he adds, that, to the question, "Who shall judge?" on this subject, "The answer is, Every man for himself."

924. This decision must be understood to reject, as mistaken feeling, all affection towards the existing Constitution of the Country. All loyalty to the Sovereign, and affection towards the other governing bodies, can only be impediments in the way of forming this judgment, which every one is called upon to form, whether the Government may not be resisted or changed without public inconvenience. The condemnation with which both law

and common opinion regard Faction, Sedition, and Treason, can have no place in the bosom of a consistent Moralist of this school. Such a one would rather be led by his views to deny that there was any harm in Sedition and Treason; since these might be necessary means of attempting improvements. There may be always ground to hope advantage from change; and those forms of attempting it, which the law calls Sedition and Treason, may be natural results of a wish to promote the public convenience; and therefore, even if errors, are no proper objects of indignation.

925. It is true, that Paley and his followers do not really draw, from their doctrines, such conclusions as these. They assert Expediency as the sole basis of the Rights of the State, and of the Obligations of the Citizen; but then, they assume Expediency to be a sufficient ground of strong love for existing expedient things: and of strong condemnation of those who attempt to change them for things less expedient. Though professedly so open to proposals of change, they really cling with affection to the claims of usage. And though deriding the value set upon the Constitution by others, Paley is often led to refer to it himself as an important subject of consideration.

926. Thus, he says, in speaking of his doctrine of Resistance to Government, "Not every invasion of the Subject's rights or liberty, or of the constitution; not every breach of promise or of oath; not every stretch of prerogative, abuse of power, or neglect of duty by the chief magistrate, or by the whole, or any branch of the legislative body, justifies resistance, unless these crimes draw after them public consequences of sufficient magnitude to outweigh the evils of civil disturbance." And again, as a reason for especially resenting and punishing viola-

tions of the Constitution, he urges that "a well-known and settled usage of governing affords the only security against the enormities of uncontrolled dominion." Here, the Constitution is become a valuable reality. In the same manner Paley, after he has said that "an act of parliament can never be unconstitutional, in the strict and proper acceptation of the term," as if startled by the hardihood of his own assertion, adds, "that in a lower sense it may; viz., when it militates with the spirit, contradicts the analogy, or defeats the provisions of the laws made to regulate this form of government." This spirit and this analogy form a large part of what has always been understood by the Constitution.

927. The same thing may be noticed in other passages. Thus Paley asks, "Why is a Frenchman bound, both in law and in conscience, to submit to many things to which an Englishman is not obliged to submit?" He replies, "Because the same act is not the same grievance, where it is agreeable to the constitution, and where it infringes it." "And this," he adds, "is sufficiently intelligible without a Social Compact." But when he thus explains the case by reference to the Constitution, and to the wrong inflicted by its violation, he approaches very near to the meaning and the language of those who hold the Doctrine of a Social Compact expressed in the Constitution of the Country.

928. Indeed, we may remark in general, that in Paley's mode of treating moral questions, although Expediency is proclaimed as the basis of all Duties, Obligations, and Rights, yet that when these asserted results of Expediency have assumed the forms of Duty, Obligation, and Right, they are forthwith represented as the occasion of affections and sentiments which it would, by most persons, be reckoned absurd to found upon Expediency alone. The ear-

nest love of what is right, and indignation at what is wrong, are professed by the disciples of Paley, as feelings in which they, no less than any other men, have a share. Yet how strange does the description of these feelings sound, when translated into the proper phraseology of the school ;—when they are called the “earnest love of what is expedient,” and the “indignation at what is inexpedient.” The insufficiency of the notion of Expediency, as a basis for moral affections and moral sentiments, proves that it is not the true basis of Morality. And this further appears, by the mode in which it is employed by its assertors. While we read Paley’s pages, we find, that when he comes to particulars, the things which he treats as Realities, and by reference to which he discusses special cases, are the things which he has rejected in his general discussions ;—Constitution, Supposed Ancient Covenants, Established Usage, National Rights ; while the Expediency, which is asserted in general as containing the essence of moral and political philosophy, is put out of sight as an element of discussion, and becomes merely an occasional form of expression.

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## CHAPTER VII.

### NATURAL PROGRESS OF GOVERNMENT.

929. CIVIL Government exists as the necessary condition of man’s moral being. It combines the conditions of Order and Freedom ; and corresponds to its Idea the more completely, in proportion as it more completely realizes those conditions. In the history

of different nations, we may discern various successive steps towards these combined conditions of Order and Freedom; and some of these steps it will be proper here to notice.

In the earlier kinds of Government which prevailed in human Society, Order was the leading character, and was regarded as their main purpose. Man had to learn and practise Obedience to Rules, before he could learn to use his Freedom. The first form of Obedience, is Obedience to parents: the first kind of Government, is the Government of the Family. When, by the growth of succeeding generations, the Government of the original Family became the Government of many Families, there came into existence the *Patriarchal State*, in which the Supreme Authority resided in the Patriarch, the Head of the Original Family. And when the Original Patriarch died, the habit of filial obedience was retained, and the obedience transferred to the new Head of the complex family, however selected. In this kind of Government, we hardly see Freedom as a distinct element; for Freedom of thought is so subdued by Filial Reverence, that it hardly appears as a Principle of action opposed to Rule. Yet under the Patriarchal Rule, we may suppose the members of the Family to have their distinct Rights of Personal Security, Property, Contract, Marriage. And if any wrong were done by one member to another, the Patriarch would be the natural Judge; he would determine who was the wrong doer, and pronounce the sentence of redress or punishment, according to his judgment of the equity of the case; or it might be, according to express Rules, which he had promulgated among his children for their guidance.

930. By the migrations of men in the earliest times, the original families of mankind were separated, and settled in various parts of the earth's surface; they were divided into races; the races were

again separated into nations, tribes, clans. These nations acquired a property in the territory which they occupied ; it may be, according to the appointment of the Patriarchs of the race, dividing the land among their descendants ; or it may be, by a series of mutual agreement between the heads of neighbouring tribes, like what is recorded of Abraham and Lot (Gen. xiii., 9) : *If thou wilt take the left hand, then I will go to the right ; or if thou depart to the right hand, then I will go to the left.* The heads of tribes and clans, and other persons also, might, in such a state of things, acquire wealth in cattle, and food, and raiment, and ornaments, and other objects of desire ; and might have many followers and servants, obedient to them, because dependant upon them for subsistence or enjoyment. The Natural Rulers of men, in such a state, would be those in whom the remnants of the Patriarchal authority were supported by the inheritance of a large portion of the Patriarchal possessions. An *Aristocracy of Birth and Wealth* combined, would be the Government of Nations in such a Condition.

931. In such a kind of Government, however little Freedom poor and common men may possess, the Chiefs have considerable Freedom to act, and means of manifesting the difference of character and purpose which prevail among men. The chief of one tribe may make war upon the chief of another ; they may lead their followers to battle ; may show courage, skill, energy, sagacity, perseverance in war. One Chief may be a Conqueror of many others. He may, by his actions, excite fear, admiration, and enthusiasm. He may be regarded as a *Hero* ; and the empire over men's minds which he thus acquires, may make them submit to him, and obey his Commands. In this case, the Government may be termed *Hero Sway*. And this Sway may be acquired, not merely by success in war, but by

any of that superiority in overcoming great difficulties and executing great designs which subjugates the minds of other men. Those who are subject to such Government are not free ; they are, as it were, fascinated, and their obedience is a kind of Worship.

932. Such Government therefore cannot unfold the moral nature of man. For this purpose the opposite Principle must be called into action. In order that man may be a moral agent, he must not be subjugated and fascinated, but freed and enlightened : he must be governed and directed by something, not because he *does not* understand it, but because he *does*. He must be directed not by mere external Will, but by intelligible Rule. He must obey, not a creature of superhuman power, but the dictates of our common Human Reason. The Reverence for *Ideas* must take the place of the Worship of Heroes.

933. It is only when Government assumes this character, that it becomes fitted for man. Man, when his moral faculties are awakened, requires that his Government be just ; and submits to it willingly, in proportion as he sees embodied in it this Idea of Justice. He is not satisfied to be ruled by a Hero, except he be also a just *Judge*. He must have not merely Commands which all obey, but Laws which all observe.

934. But neither is men's Conception of Government satisfied by the abstract Idea of Justice, administered so far as its Rules are universal. In the actual world, we never can have the Idea liberated from the Fact. The History of man, as a series of Facts, must be combined with this conception of Justice, as the rule of his moral being. There will still remain the traces of the original tribes of men, and of the actions of the Heroes who conquered their lands, or founded their cities, or ordained their mode of life. Their Languages will bear the marks of the

distinctions thus introduced among them. Men are divided into *Nations* ; each Nation has its Speech, its History, its Usages, its Laws, its National Character.

935. A nation requires not merely to have Justice administered, but also to act *as a Nation*. It must have a Governor to act for it ; to foresee, design, execute, on the part of all ; as well as to keep each from wronging each. If it be governed by Judges only, it will ask for a *King*.

The King represents the Nation, both as to Facts and Ideas. He exercises the Will and Power of the Nation, and acts its part in History ; and he is also the Source of Justice, the Preserver of Order, the Assertor of Rights, the Punisher of Wrongs.

936. But within the nation also there may remain traces of ancient actual distinctions ; which the national union, though it has comprehended and superseded, has not obliterated. Ancient conquerors and heroes, and rich and historical families may have their successors ; who continue to retain a portion of the ascendancy over men's minds which belonged to Patriarchs and Heroes at earlier periods ; and may also have power from their present wealth. These *Nobles* form a Natural Aristocracy in the Nation. There may be several Ranks and Conditions of persons. The individuals of a Nation are thus distinguished as Noblemen and Common men, Patricians and Plebeians, Rich and Poor, High and Low. But in almost every Nation, there is to some extent or other this *Difference of Conditions, or Classes*.

937. This Difference of Conditions will enter into the consideration of questions of Right between the members of the Nation. For the Definitions of Rights of all the Citizens are necessarily historical facts : namely, the historical facts which have established the differences of which we have just spoken. The same series of facts which has made



one field belong to Caius and the next to Titius, has made Caius a Patrician and Titius a Plebeian.

938. This difference of Ranks is accompanied with a difference of Political Rights. The history which has produced Patricians and Nobles, has also, in general left them some portion of the power of Aristocracy. They have some share in the Government. The Government is compounded, variously in various countries, of Aristocracy and Monarchy.

939. Although the King is, as we have said, conceived as the representative of Justice and Order, and the assertor of Rights, the person who is at any time King, becomes so by the course of historical facts, and not by any process which makes him necessarily conformable to the Idea of a King. As a matter of fact, he may be unjust in his judgments between his Subjects, and in his actions towards them. He may take advantage of their habit of obedience, for his own personal gratification. Or he may act, on the part of the nation, in a way which does not at all represent the will of the nation. He may wish to use its power for war, when all his subjects wish for peace ; or may neglect the defence of the Country, or the administration of the Laws, or any other National Obligation.

940. In the Cases in which any portion of the government remains in the hands of any other part of the nation, as the Elders, or the Nobles, this portion may be used by them, on the part of the Nation, for the purpose of preventing that neglect of the National Obligations, or Violation of Personal Duties, which the King would otherwise have committed. If, for instance, there be a Senate, without whose consent the King cannot make war or peace ; or by which unjust Judges can be punished ; such a Senate will be a *Check* upon the power of the King. It will *balance*, in some measure, his authority ; and may

thus prevent the results of unjust intention or perverse will in him.

941. The Senate are in the Condition, both of Governors, and Governed : they are Subjects of the King, and Rulers of the People. For them, the Government combines the conditions of Order and Freedom, at least to some extent ; for they are, in some respects, not only free to act for themselves, but also to act for others, and to exercise a share of command over others. They are not irresistibly controlled by the will of the King, for they have the power of resisting it, and even, in some degree, of controlling it.

942. But the People, who are thus subject to the King and the Senate combined, are they free agents, such as their moral nature requires them to be ?—If the sway possessed by the King and the Senate be exercised mildly and temperately, the People may be, for a long time, free, so far as almost all the purposes of Morality require. Under the paternal sway of good and kind men, acting without check, as King and Senators, the subjects have the means of acting as good children. But such a sway cannot answer all the purposes of Morality. Men cannot feel themselves free, when their freedom depends upon the arbitrary will of others. They are not free, if their freedom may be taken from them to-morrow, without their having any power of resistance. They are not free, if they have no security for their freedom ; no means of asserting and defending it, should it be assailed or infringed ; in short, they are not free, if they have not some Political Rights ; some Rights in relation to the Government. And not being free, their moral career cannot be complete. They cannot carry on their moral and intellectual culture, in the hope of bringing into intelligible harmony with themselves all the circumstances of their condition ; for there is one element

of their condition, the Government, on which they have no power of acting, and which does not allow itself to be scrutinized and understood. They cannot go on constantly and indefinitely in the realization of their moral ideas; for when they would extend this realization from private to public life, they find themselves stopped by the impassable barrier which separates them from the ruling classes.

943. Thus, without Political Rights securing the Liberty of the people at large, Government incompletely attains that Combination of Order and Freedom which is requisite as the Condition of man's moral being. For this purpose, besides the Checks and Balances which a Senate may offer to the Injustice or Imprudence of a King, there must be some security of Popular Rights, some protection of the Liberty of the Subject. The Monarchy must not only be balanced by an Aristocracy, but must also recognize a Democracy.

944. Thus the State, in order to answer its purposes completely, must contain a combination of Monarchy, Aristocracy, and Democracy. The Aristocracy stands for order, and the Democracy for Freedom in the Combination: the Monarchy gives unity to the Combination. The Aristocracy stands for Order; for the Sovereign Power cannot subsist except it be supported by the natural Aristocracy of the Community; if not by the Aristocracy of Birth and Wealth, by the Aristocracy of Prudence and Force. The Aristocracy represents the actual Past; the events which have taken place and left their effects: the Democracy represents the actual Present; the events which the powers of men, acting freely, are bringing into being. Monarchy is an Ideal Power which binds together these elements; acts for the State in present history, and is the source of the Order and Justice which the State must realize.

945. Thus, these three kinds of Government

must be combined in the Idea of a State; and they have, in general, been mixed together, in the States which have best answered their moral purposes. But yet, from various circumstances, one or another of these elements may become so obscure, as to seem to lose its nature; and still, the Government may have a long and tranquil existence. If a State be established by actual contract among a number of men meeting as equals, it has no past, and need have no Aristocracy. For the moment, the Aristocracy and the Democracy are identified. Every man is at the same time Governor and Subject, bound to Order, and possessed of Freedom. And if the Constitution be wisely framed, such a condition of things may long continue. The natural tendency of the progress of time is to generate an Aristocracy; but this tendency may be counteracted by the activity of the Democracy. Again, the Democratic element may be so feeble that the nation may be entirely governed by the past;—by an ancient Aristocracy, or an ancient line of Monarchs. Where Freedom is thus extinguished, the State as we have already said, answers its moral ends imperfectly. Again; the Monarchical element may be enfeebled in various ways: as by dividing the executive from the judicial character; by presenting the State itself, not the King, as the source of Justice, and by distributing the Sovereign Executive Power. The Executive Power may be held but for a short time, as by Consuls or Presidents for a year, or a few years. By such means, Democracy may be established, with very small evident mixture, either of Monarchy or Aristocracy.

946. In nations which have subsisted for many centuries, the Aristocratic element is generally conspicuous and powerful, having on its side accumulated property, the habit of command, superiority of culture; and in its favour on the other side, the habit of respect for historical families, and of obedience to

existing authority. But on the other hand, where there is a germ of freedom to begin with, there are strong influences on the Democratic side. For the influence of the past becomes constantly weaker by the lapse of time; and the balance, which at first was kept steady by the weight of old families, is disturbed by the rise of new men, who grow in wealth, or in some other form of power. And as the love of power on the one side, so the love of freedom on the other, may become a craving for more. Thus there are tendencies which may produce a struggle between Aristocracy and Democracy; such a struggle has taken place in most old countries, and has occupied many centuries.

947. In the contest between Aristocracy and Democracy, the Aristocracy represents the Principle of Order; for the authority of the existing laws is the inheritance of the past, and belongs to the heirs of the past. But the Principle of Order may also be embodied in a line of Kings, as well as in families of Nobles; or in the two conjointly. In this case, the Monarchy derives its force from the actual past, as well as from the Idea of a National Will and a National Justice. On the other hand, where the people have already acquired Political Rights, the Democracy represents, not only the Principle of Liberty, but the Principle of Order also; for they assert their Rights, as fixed by existing Laws. Hence we do not find in the History of Nations, the Cause of mere Order and of mere Liberty opposed to each other. The Democratical party assert the necessity both of Order and of Liberty: the opposite party, whether Monarchical or Aristocratical, respect Liberty, so far as it is established by Law. Yet still there is an opposition; the one party make a stand for Order combined with Liberty, as it is by Law established; the other party contend for an extension of Liberty, which they hold to be reconcilable with

Order. The one is the Cause of Authority, the other of Relaxation. The one Party are a *Conservative* Party, who contend for the position of equilibrium of Order and Liberty, which already exists : the other are a *Movement* Party, who seek a new position, in which a larger share of Liberty enters.

948. The forms which such struggles take, and the means which are employed in them, are very various. Popular Rights are embodied and protected by Laws, which give to the people security of person and of property ; by a share in the election of Magistrates ; by Magistrates who are the special defenders of such Rights (as the Roman Tribunes of the Plebeians) ; by men of the People holding Magistracies ; by the People having a share in making the Laws ; and the like. The Assemblies, whether Senates or General Assemblies, in which such questions are discussed and decided ;—in which Laws are passed, Magistrates elected, the National Acts determined upon ;—are the especial scenes of the struggles of Parties : either of the Conservative and the Movement party, which universally exist in such cases ; or of Parties, which, without being guided by any fundamental Principle, have for their object Power ; namely, the Power of directing the national acts. If such Assemblies be moderately numerous, and if the citizens who take part in them, really aim at Order, Liberty and Justice, the balance of the Constitution may long subsist. And if, on the increase of wealth and intelligence in the People, a large share of Popular Rights is pressed for, the Conservative Party may, by yielding slowly and yet holding steadily, find the new position of equilibrium which is suited to the new condition of the community.

## CHAPTER VIII.

## THE REPRESENTATIVE SYSTEM OF GOVERNMENT.

949. WHEN a nation becomes very large, such a balanced Constitution, as we have just spoken of, in its simple form, becomes difficult or impracticable. The General Assemblies of the citizens become too numerous and too mixed, to deliberate and act with order, freedom, and virtue. When freedom has existed in large nations, it has existed under more complex Constitutions; and the struggle between Established Authority and the demands for Enlarged Liberty have assumed corresponding forms. Sometimes the struggle has been between the King and the Nobles, the Nobles contending for Liberty for themselves; while the question of Liberty between their dependents and them is left to be settled afterwards. Thus the Barons of England, as the assertors of English Liberty, obtained Magna Charta. Or the struggle may be between the King, and certain Classes of the Community, collected (they or the principal persons of them) in Assemblies, Class by Class. Such Assemblies are the *Estates* of the Realm: thus in England the three Estates were anciently, the Spiritual Body, the Temporal Lords, and the Commons. The Members of the Estate of the Commons, the Third Estate, may be appointed by the People in various ways; but in all its modifications, this Estate is a *Representative Assembly*. And in nations where Classes of Society with broad historical distinctions have never existed, or where the distinctions have been abolished, the whole body of the people may be divided into Electoral Districts; and the Representatives of these Districts may form assemblies by which free government may be exercised for a territory, perhaps, of unlimited extent.

950. The Principle of Representation in Government is entirely of modern origin. In the ancient world we nowhere find it brought into play. As we have just said, it is a necessary condition of the freedom of a great nation; for the whole body of the citizens could not, in any other way have their share in the Government. But the conduct of national business by Representative Assemblies, has advantages much beyond its making freedom merely possible for an extensive and populous country. It prevents the tumultuous meetings and rash proceedings of large popular assemblies. It also, by reducing the number of the deliberative assembly, increases the calmness and reasonableness of their discussions and decisions. The members of the assembly, not having found their place into it by chance, but being chosen for their real or supposed merits, act with a greater sense of responsibility; and will be, really, a wiser and more trustworthy set of men, than the citizens taken at hazard. Their being few in number, selected for merit, the object of public notice, makes them more likely to act for right ends, and less likely to be seduced by the prospect of personal advantage to oblique and selfish courses. The Members of such an assembly also attend to their public business more regularly and carefully than the people at large would do or could do. The Members of the Assembly become statesmen by profession, and attend to their work with a professional care and skill. They guard both order and liberty, the Rights of the State and of all citizens, more watchfully and better than the citizens would guard their own Rights.

951. On the other hand, in the Representative System, the people at large are liberated from the task of managing the Government, which they could not execute well; and are charged only with a business to which they are fully competent, that of elect-



ing those who are to govern. The citizens who would be wholly unfit to be trusted with the decision of a question of foreign polity, or domestic economy, or jurisprudence, may be qualified to choose a person as their Representative. In this manner, the whole people have a share in the government: both the masses of population in the towns, too numerous and too ignorant to rule directly; and the people of the country, too scattered otherwise to act at all in public business. For these two may be brought together without difficulty on such occasions as the choice of a Representative.

952. We see, then, that this Modern Step in Polity, the introduction of the Representative System, makes a combination of Liberty and Order possible upon any scale however large, and brings with it other vast advantages. But for this purpose, the Representative must not be merely a Delegate, who reports to the Central Assembly what his constituents have directed him to say; nor must he be a Senator for life, who, once elected, is no further responsible to the electors; nor must he be a Patron, who has the people whom he represents, not for his Electors, but for his Clients; and finally, he must be a Representative in an Assembly which acts for the Nation; for it is of national Government that we are speaking. Hence it has been rightly stated\* as essential to Representation, that in electing him the power of the People must be parted with, and given over, for a limited time, to Deputies chosen by the People; the Deputies fully and freely exercising Power instead of the People.

953. After the Representative System is fully established, the Struggles of Parties, and especially the Struggles of the Conservative and the Movement Party in each Country, are mainly carried on by

\* Lord Brougham, *Polit. Phil.* Part. III., 33.

means of Debates in the Representative Body. The leading Ideas of these two opposite Parties are, as we have seen, Order and Freedom. In the historical course of the struggle, these Ideas are exemplified and embodied in special forms; in Coercive Laws on the one side, and Popular Rights on the other; and the Struggle is carried on with reference to a series of special and subordinate objects of this kind.

954. When men begin to direct their thoughts and actions, not towards a Practical Order and a Practical Freedom, to be attained by the removal of Special Disorders and Special Grievances, but towards a general *Notional Order* and *Notional Freedom*; these Notions are too vague to direct their actions safely, while the very largeness of the Notions makes them disturb the tranquil progress of men's thoughts. And thus, the enthusiasts of both sides strain after a Visionary Polity, in which they think they could realize their Notional Order or their Notional Freedom; but without making any real progress towards the Object. In Polity, as in the Inductive Sciences, every large ascent towards Truth consists of a number of small ascents; and is to be forwarded only by struggling with the difficulty at which we have arrived; not by tracing in our minds a visionary scheme of the Science, which conducts us to some complete body of knowledge. Bacon has remarked that though the human Intellect naturally tries to reach the ultimate Truth at a single flight, yet that the only way in which Truth can really be attained is by a gradual progress through many intermediate steps.\* The same is the case, for the most part, in the historical progress of nations towards a realization of the combined Ideas of Order and Freedom.

\* *Nvo. Org.* i. AX. XIX., XX.

955. By means of the Representative System, Freedom has been established in some of the Monarchies of Europe, in the Democracy of the United States, and in some of the British Colonies. In all these cases, however, there has been, in addition to the Assembly directly representing the People, another Assembly, a Senate, or a House of Peers, consisting of persons, either not at all, or not so directly, elected by the people. The joint assent of this Upper House and of the Lower Assembly has been made requisite for the validity of the measures of the State. And there appears to be strong reason to believe, that without such an Upper House, the balance between Order and Liberty in a State could not long be preserved. For an Assembly, chosen by the People, and brought directly into conflict with the Established Authority in its highest form; if it be strong enough to struggle at all, will be inflamed by the struggle, and will act hastily, angrily, and immoderately. The assent of another Assembly in its proceedings, if required for their validity, secures a deliberate and calm survey of the question, by men not heated and blinded by the same contagious passions and interests. With three bodies in the State; the Sovereign, the Senate, and the Representative Body, it is probable that two will be against the one which would disturb the balance of the Constitution.

956. Yet the balance is sometimes disturbed in most States. It is only by a rare felicity, that the struggle between the Conservative and the Movement party is carried on from age to age without producing such oscillations as overturn the balance. To yield slowly and firmly, to advance steadily and moderately, are rare virtues in Political Parties. Moreover, as we have said, besides the struggles of Parties from Principle, there are struggles of Parties for Power. It may happen that the Established Autho-

rity uses its Power to crush Established Liberty ; and that the forms of the Constitution fail in providing adequate means of resistance. It may happen that Established Authority refuses all concessions, till the sense of practical grievances becomes intolerable, and leads to popular violence. It may happen that when the popular Party is strong, men's minds are inflamed with a Love of Notional Liberty, which no practical concessions can satiate ; and then, the popular Party itself violates the Constitution. In these and many other cases, we may have *Revolutions*, or violent and anomalous Changes in the Constitution. They are, as we have said, cases of necessity ; to be justified only by their necessity.

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## CHAPTER IX.

### ACTUAL PROGRESS OF GOVERNMENT IN ANCIENT ROME AND IN ENGLAND.

957. THE history of ancient Rome is an example of a long-continued struggle between an aristocracy and a democracy. According to the views of the most philosophical historians, the Patricians alone had a place in the original constitution of the Roman State. The Senate was the Administrative Council, with the King, and afterwards, with the Consuls, at its head ; the Senate and the People (*Senatus Populusque Romanus*) had the Legislative Authority, exercised in the *Comitia Curiata*, the Assemblies of the *Curies* or Wards of the Patrician Houses (*Genes*). The Plebs was a populace occupying a portion of the city, but not admitted to any place in the Senate, the Magistracy, or the *Comitia*, although forming a considerable portion of the army.

Seneca the Elder, the sixth King, gave a legal organization to the State, by dividing it into thirty Tribes; and gave it a place in the Constitution, by the institution of *Comitia* divided into Centuries, including, as the name implied, Patricians and Plebeians together; and by the institution of an Assembly of these, *Comitia Centuriata*, with authority for certain purposes. But it was long before the Plebeians obtained the advantages which such a Constitution seemed to promise them. They were still oppressed and kept under by the Patricians. They were excluded from the Consulship, the Senate, and most Magistracies, and from intermarriage with Patricians. The Patricians had the profitable occupancy of the land (ager publicus), which nominally belonged to the State; and in many cases, lending money to the impoverished Plebeians, acquired personal power over them, in virtue of the severe Roman Laws respecting Debtors.

452. This inequality of Rights and Advantages led to a Sedition, in which the Plebeians began, in a body, to separate themselves from the Roman State. They were brought back by concessions, that the debts of insolvents should be cancelled, and that they should have two magistrates appointed as their protectors; Tribunes of the Plebeians; whose persons should be inviolable, and who should have the power of interposing, so as to arrest any legal proceeding. From this time, the Plebeians, by struggles of various kinds, obtained many of the Rights from which they had at first been excluded. The practice of voting according to Tribes, in the *Comitia Tributa*, was employed; and by this means the power of the Plebeians was very greatly increased. *Connubium*, the intermarriage of Patricians and Plebeians was allowed; the Senate was thrown open to the Plebeians; afterwards it was ordained that of the two Consuls, always one should

be a Plebeian. They succeeded in their attempts to carry Agrarian Laws, for an equal division of the publicland. At length the remaining Magistracies were thrown open to Plebeians; the decrees of their assemblies (*Plebiscita*) were invested with the force of Laws; and the distinction of Patricians and Plebeians ceased to have any political value. The Polity of Rome had been changed by these struggles, from a rigorous Aristocracy, to a combination of Aristocracy and Democracy. This may be looked upon as the golden period of the Roman Constitution. It is at this period that it obtained the admiration of Polybius: who describes the Constitution as exhibiting, in the combined institutions of Consuls, Senate, and Commons, a happy mixture of Regal Power, Aristocracy, and Democracy.

959. When Rome had become Mistress of the whole of Italy, new struggles arose, in consequence of the demands of the Italians claiming to be admitted into the privileges of the Roman Constitution. If the practice of modern times had been introduced, according to which the Citizens of Free States act their political part by their Representatives, it is possible that Italy might have long flourished under the mixt Roman Constitution. But the attempt to make all Italy one City, in a political sense, soon led to confusion. The Democratic portion of the State was too numerous for orderly action; and mobs of armed men, and armies, soon took its place. The evils of this state of things were so intolerable, that after a few transient changes, the Romans, in order to obtain tranquillity and security, were willing to resign their Liberty. They acquiesced in the sway of the successful General, bestowed upon him all their Constitutional Magistracies, and acknowledged him as their Emperor (*Imperator*.)

960. The *Imperium* from which this designation was especially borrowed, was the military power

which the Commander of the Army has assigned to him over his troops in the field. It was of the most absolute kind, and was made obligatory upon each person by an oath (*Sacramentum militare*), that he would be faithful and obedient to his General, saving the fidelity he owed to the Roman Senate and People. On the destruction of Public Liberty, this Oath was taken to the Emperor, as Commander-in-Chief; but the Clause in favour of the Senate and People was omitted. Instead of being limited to the Soldiers, the oath was extended to all magistrates and citizens, and ultimately to the provincials. And thus, the Roman Emperors had unlimited power, both by the accumulation of all civil authority in their persons, and by the military authority thus declared.

961. Accordingly, the Emperor had legislative as well as executive power. The Roman Jurists say,\* "Quod Principi placuit legis habet vigorem, utpote quum Lege Regia quæ de Imperio ejus lata est, Populus ei et in eum omne suum imperium et potestatem conferat." Religious as well as Civil authority was given to the Emperor; a sacredness and a kind of divinity were ascribed to him. After Christianity became the Religion of the Roman State, high religious dignity was still attributed to the imperial condition. In imitation of the Jewish kings, he was anointed with oil, and consecrated by a priest; he was declared to hold his crown by the Grace of God, and was spoken of as the Vicar of Christ over Christian people. And thus, the monarchical office was elevated to a transcendent supremacy and ideal perfection; it was the Source of Order, Justice, and Right; and absorbed and super-

\* *Dig* 1., 4 *Inst.* 1., 2, § 6. *Gaius*. 1., § 7. The Command of the Emperor has the force of Law; for by the Royal Law respecting his authority, the People gives to him and confers upon him all its authority and power.

sed all other powers and Rights which had existed in the Constitution.

962. Very different from this view of the chief ruler of the State, was that which prevailed among the northern nations who gradually took possession of the provinces of the Roman Empire. In the most considerable of the Germanic tribes, the form of Government was republican. Some of these had a Chief, to whom the Romans gave the name of King ; but his authority was very limited. The Supreme Authority of the nation resided in the Freemen of whom it was composed. When a national war was undertaken, one of the Chiefs was selected to command the army, but his authority expired with the return of peace. But when these tribes settled as conquerors in the Roman provinces, they adopted, in many respects, the customs and the legal language of those whom they subjugated. The superiority of the Romans over the Barbarians in intellectual and literary culture, the advantages attendant upon fixed laws, and laws already fixed, strongly promoted this result. And after a time, the servility of men's language infected their thoughts ; and the subjects of the kingdoms which arose out of the empire not only spoke, but in some measure thought of their King, as the Romans had been accustomed to do of their Emperor.

963. But there was another especially Germanic element, which modified the feelings of men towards their Chief. Every German Chief had a band of Followers, who had voluntarily attached themselves to him. From him they had received their recognized place as warriors ; at his table they feasted ; to his service they were devoted. In war, *he* fought for victory, *they* for their chief. From an ancient Teutonic word signifying their *trustiness* to him, they were called *Antrustiones*. They were also called the Chief's *Vassi*, his young men, or his



ment: as the act of a person declaring himself a superior's man was afterwards called *homage*, by a derivative from the Latin. This connexion was regarded as the most sacred which could subsist between one man and another. The usage of this connexion the Germans carried with them into the countries which they subdued, and it became one of the chief bonds of political union in the governments which they established. It was commonly confirmed by an oath, promising fidelity, *fealty* or *allegiance*, on the part of the inferior, and sometimes, by an oath promising protection and justice on the part of the superior. The feelings connected with this ancient relation of superior and inferior have given a peculiar character to *loyalty* towards a Sovereign, as conceived in modern times.

964. The Feudal System, which was established in Europe after the separation of the Roman Empire, borrowed much of its language from this relation of the Chief and his men: it became that of the *Seignior* and his *Vassals*. But the Feudal System borrowed its more substantial element, the tenure of land by military service, from the Roman Empire. Even while the empire was only commencing, Sylla and Augustus assigned lands to their Veterans; and a little later, lands were granted to the *Limitanean* or *Riparian* Soldiery, on condition of defending the boundaries of the empire. These were commanded by the *Dukes* and *Counts* of the Provinces. Under Constantine, the *Count of the Saxon Shore* ruled from Norfolk to Sussex, while the *Duke of Britain* governed the remainder of Britain. These military Counts and Dukes were the Magistrates, as well as the Commanders of the Soldiery. The Military, so organized, constituted a distinct and ruling Class, both in consequence of their privileges, and of the right which they exercised of electing an Emperor upon some occasions. They were,

in short, a Military Aristocracy. The lands thus possessed by military service were termed Benefices (*beneficia*); and afterwards Fiefs (*feuda*), by the Barbarians, who received land from the Roman rulers on the like conditions. Afterwards the Seigniors or Lords held their Fiefs as the grants of the Kings of the separate kingdoms. In turn, they themselves granted portions of them to inferior, Vassals, on the like condition of military Service; and this *Subinfeudation* of Vassals and *Arriere of Vassals* was continued through several degrees. The subordinate holders of feudal benefices possessed some of the privileges of feudal Lords. In the course of time, Fiefs became hereditary.

965. Thus the *Feudal System* was established; and gave to the relation between the Governors and the Governed a new form. Instead of the single transcendental authority of the Roman Empire, before which all Liberty was annihilated, there was, along with Monarchy, a Military Aristocracy, in which the Superiors and Inferiors, from the Sovereign downwards, had mutual Rights and Obligations, of Protection and Service; and in which there were, therefore, for them, Elements both of Order and of Liberty.

966. It is true that this Order and this Liberty were very imperfect, being only such as are maintained in a state of peace which is looked upon as subordinate to a state of war. The lowest members of the Feudal System were liable to great oppression. Moreover, the peaceable part of the community, the inhabitants of towns, and generally, those who had no place in the army, were not provided for in this System. So far as they were concerned, there was no Security and no Liberty. Hence, from this time, the struggle between Monarchy, Aristocracy, and Democracy, takes a new form. We have the Feudal Aristocracy in conflict

with the Imperial Doctrine of absolute Regal Power; and we have the Burgher Democracy in conflict with the Feudal Aristocracy and the Monarchy.

907. Our own country exhibits to us an exemplification of these conflicts. The Feudal System was fully established in England by the Norman Conquest; but the Conqueror gave to it a more monarchical character than it elsewhere had, by requiring, not only those who held in chief of the crown, but also their tenants, to swear personal fealty to the King. On the other hand, the exorbitance of the royal authority was resisted, not only by the rights of feudal tenancy, but also by a spirit of Freedom which the Anglo-Saxons had derived from their German ancestors, and by the Anglo-Saxon Laws and Institutions, which embodied this Freedom. The Anglo-Saxon Kings were guided, in the main acts of their government, by the great Council of the nation, which bore the title of *Witenagemote*, or the assembly of wise men. All the Laws expressed the assent of this Council. It was composed of Prelates and Abbots, of the Aldermen of the Shires, and, as it is expressed in the Laws themselves, of the Noble and Wise of the kingdom.

908. After the Norman Conquest, when the Anglo-Saxons were for a time, not only subjected to rigorous feudal servitude, but reduced to the condition of a subjugated race, they looked back with an affectionate regret to the *Laws of Edward the Confessor*. William the Conqueror was induced to relax the rigour of his rule, so far as to grant his subjects a charter, in which he professed to restore the Laws of the Confessor, and to relieve, or at least to limit, the feudal burthens. Similar Charters were obtained by the subjects from succeeding kings; and after various struggles, there was won, from the crown, the Great Charter of King John, which determines the character of the English Con-

stitution. This Charter, from the time of its being granted, was always considered as a primary and fundamental law of the nation. Mr. Hallam says,\* "This is still the key-stone of English Liberty. All that has since been obtained is little more than as confirmation or commentary: and if every subsequent Law were to be swept away, there would still remain the bold features which distinguish a free from a despotic monarchy." Like preceding Charters, this redresses the worst grievances of the military tenants; but its more important clauses are those which protect the personal security and Rights of Property of all freemen. "No freeman shall be taken, or imprisoned, or disseized of his freehold, or liberties, or freecustoms; or be outlawed, or exiled, or any otherwise destroyed. Nor will we pass upon him but by the lawful judgment of his peers and the Law of the land. We will sell to no man justice and right; we will not deny or delay them to any man." Other clauses restrain excessive and arbitrary demands of those pecuniary aids which the Feudal System authorized the Lord to claim of his vassals.

969. But the great Council of the Nation, as well as the Charters of the Kings, became a bulwark of Liberty. In the Saxon and in the Norman period, the King legislated with the advice of his Great Council or Parliament. It was a principle of the Feudal System that within the limits of his fief, a Vassal could not be bound by a law made without his consent.† New taxes, like other new laws, required the sanction of this Assembly; but the King had many old established claims upon his vassals, as *Escuage*, a commutation for the personal military service of his tenants; *Tallage*, a tax on

\* *Middle Ages*, III., 447.

† Hallam, *Middle Ages*, I., 247

his demesne lands and royal towns; *Customs*, on certain imports and exports. The Great Charter restrained escuage imposed without consent of Parliament; and the successors of John never pretended to a general right of taxation without this consent. This part of the Constitution attained a more definite form under Edward the First. His *Confirmatio Chartarum* not only gave to previous Charters most solemn sanctions, and universal circulation; but gave to private property that security against the aggressions of the crown, which Magna Charta had given to personal liberty. By this Statute the "aids, tasks, and prizes," previously taken, are removed as precedents; and the King grants to his Clergy, Peers, and to all the Commonalty of the land, "that for no business from henceforth we shall take such manner of aids, tasks, or prizes, but by the common assent of the realm, and for the common profit thereof."

970. But here the progress of the Constitution towards a balance is further marked by the appearance of the Commonalty as well as the Nobles in Parliament. There is a House of Commons as well as a House of Peers.

The earliest known writs of summons to cities and boroughs to send members to Parliament, are those issued by Simon de Montfort, Earl of Leicester, acting as Sovereign of the kingdom; after he, at the head of a confederation of Barons, had defeated Henry the Third at the battle of Lewes. The deputies of such places were finally and permanently engrafted upon Parliament by Edward the First. These formed a Council, in addition to that of the Barons and higher Peers; and Knights, sent by the Shires, were associated with the Burgesses, at least from the time of Edward the Second. In the course of that and the following reign, the efforts of Parliament established upon a firmer footing three essen-

tial principles of the Constitution : the illegality of raising money without consent of Parliament ; the necessity that the two Houses should concur for any alterations of the Law ; and the Right of the Commons to inquire into public abuses, and to impeach the King's Counsellors.

971. From this time, the importance of Parliament was shown by its becoming the battle-field of conflicting Parties in the State. In the reign of Edward the Second, it was not Parliament, but the Barons, who had the principal share in opposing the Government. But in the end of Edward the Third's reign, an opposition, headed by the Prince of Wales, urged their grievances by means of the Petitions and proceedings of Parliament. And Richard the Second, the son of this Prince of Wales, after a reign of contests with his Parliaments, in which he repeatedly promised redress of grievances in return for Subsidies which they voted him, was compelled to abdicate the throne, and Henry the Fourth was acknowledged King in 1399.

972. In the reigns of the three kings of the House of Lancaster (Henry IV., V., and VI.) the powers of the Parliament to protect the Liberty of the Nation were more fully unfolded. The exclusive Right of taxation by Parliament was maintained, and their Right also to direct and check the public expenditure. They exercised the Right of making their supplies depend upon the redress of grievances ; they secured the people against illegal ordinances and interpolations of Statutes ; they controlled the royal administration in matters of peace and war ; they punished bad ministers ; and finally, they established immunity of person, and liberty of speech, for themselves in their parliamentary capacity. Some of the most eminent maxims of parliamentary law were established in this period : for instance, that the Commons possess the exclusive Right of

originating Money Bills; and that the King ought not to take notice of matters pending in Parliament.

973. Under these circumstances, the election of Members of Parliament became a very important Duty and Privilege of Englishmen. It was in the eighth year of Henry VI. that the Elective Franchise of Voters for Counties was determined to belong to freeholders of lands or tenements of the value of forty shillings. The proper Constituents of the Citizens and Burgesses sent to Parliament appear to have been Chartered Boroughs, and Towns belonging to the demesne of the Crown, and all places of eminent wealth and importance, even though not incorporated. But probably no Parliament ever perfectly corresponded with this Rule.

974. Thus, many centuries ago, a Constitution was established in England, in which Monarchy, Aristocracy, and Democracy, balanced and controlled each other. There were many Institutions, Laws, and Customs, which were a security against arbitrary power; protecting both the rights of the Commons and of the Nobility; while yet the Government, in its whole tone and character, was Monarchical. In the language of the Law, all seems to grow out of the King, and is referred to his advantage and benefit. The voice of the Commons towards the Crown was, in its form, humble and deferential. The royal prerogative was always named in large and pompous expressions. This monarchical tone still more pervades our law-books. Hence, perhaps, it is, that some writers, as Hume, have fallen into the mistake of believing that the limitations of royal power in this country, during the fourteenth and fifteenth centuries, were unsettled, both in law and in public opinion. But the gradual development of the constitutional practices of parliament, in the way we have described, shows that there was nothing unset-

tled or ambiguous in their general character, as real securities of the National Liberty.

975. Accordingly, the English Constitution is described as free, and is put in contrast to despotic governments, by intelligent writers of those times. Sir John Fortescue, who was Chief Justice of the King's Bench under Henry VI., and afterwards Governor to the young Prince of Wales, wrote a Treatise, entitled "Of the Difference between Absolute and Limited Monarchy," in which the English Government is his example of a Limited Monarchy. He also wrote a Treatise, "De Laudibus Legum Angliæ," in which he inculcates this doctrine upon his royal pupil: "A King of England cannot at his pleasure make any alteration in the Laws of the Land: for the nature of his government is not regal, but political [or, in more modern phrase, not absolute, but constitutional]. Had it been merely regal, he would have had a power to make what innovations and alterations he pleased in the laws of the Kingdom, impose tallages and other hardships upon the people, whether they would or no, without their consent; which sort of Government the Civil Laws point out, when they declare *Quod principi placuit legis habet vigorem*. But it is otherwise with a king whose government is constitutional; because he can neither make any alteration or change in the laws of the realm without the consent of the subjects; nor burthen them against their will with strange impositions; so that a people governed by such Laws as are made by their own consent and approbation enjoy their properties securely, and without the hazard of being deprived of them, either by the king or any other."

976. To the same effect speaks Philip de Comines\* in the reign of Edward the Fourth. "The King of England is not able to undertake things of

\* B. iv., c. 1.



great importance without calling his Parliament, which is in the nature of our Three Estates; and consisting for the most part of sober and pious men, is very serviceable, and a great strengthening to the King. At the meeting of this Parliament, the King declares his intention, and desires aid of his subjects, and they supply him very liberally." And elsewhere\* he says, "In my opinion, of all the countries of Europe where I was ever acquainted, the Government is nowhere so well managed; the people nowhere less obnoxious to violence and oppression, nor their houses liable to the desolations of war, than in England; for there those calamities fall only on their authors."

977. The expressions exalting the King's authority to absolute power, though borrowed, as we have seen, from the Law of the Roman Empire, and inconsistent with English history, yet being retained by lawyers and others, perhaps stimulated the Kings of England to arbitrary conduct and imperious language, such as often proceeded from the Tudor princes. In opposition to this, the House of Commons did not fail from time to time to make declarations, and to take measures, in favour of the liberty and laws of the land: and though often overborne by power, they never surrendered the Cause of constitutional government. Even in the Act passed in the 28th of Henry VIII., which gave to the King's proclamations the force of law, this was limited, "So that they should not be prejudicial to any one's inheritance, offices, liberties, goods and chattels, or infringe the established laws:" and the very passing the Act, implied the recognition of Parliament as the legislative Authority. Even in this reign, in 1532, the Commons refused to pass a bill recommended by the Crown.† In the following reigns of Edward VI.

\* B. v., c. 18.

† Hallam, *Eng. Const.*, i., 59.

and Mary, the House of Commons recovered its independent powers: and the course which the Court took, in order to strengthen itself, was, to conciliate the assembly. Queen Elizabeth frequently spoke to her Parliaments in an imperious manner; but they, too, had members who spoke boldly on the other side; and though she exercised a large power in some instances, she yielded in others. The voice of English freedom was never silenced in the Houses of Parliament, nor the voice of English law in the Courts of Justice. In this period, the House of Commons established some of their most important privileges; the exemption of their members from arrest during their Session; the right of determining contested elections of their own members: the right of punishing offences against themselves by imprisonment of the offenders. The Government of England was still, as it had long been, recognized as a Monarchy limited by law.

978. In opposition to Hume, who, to show the despotic character of the English Government, has quoted from Raleigh a passage of servile flattery addressed to the Queen, Mr. Hallam quotes Aylmer, who wrote a Reply to John Knox's "Blast of the Trumpet against the monstrous Regiment of Women." In this work (in 1559), it is stated, as an undoubted doctrine, that "the regiment of England is not a mere monarchy, as some for lack of consideration think, nor a mere oligarchy nor democracy; but a rule mixed of all these, wherein each one of them hath or should have like authority. The image whereof, and not the image, but the thing indeed, is to be seen in the Parliament house, wherein you find these three Estates: the King or Queen, which represent the monarchy; the noblemen, which be the aristocracy; and the burgesses and knights, the democracy. If the parliament use their privileges, the King can ordain nothing without them: if he do, it is his fault, and their fault in permitting it."

979. There were, no doubt, persons who held that the Sovereign of England possessed, in a sense more or less strict, Absolute Power; and the opposition between these persons, and the assertors of constitutional government, became more and more marked under the Stuarts. James I. had dissensions with his parliaments, which lasted during his reign; and these led to the famous Protestation of the Commons of December 10th, 1621, which is to the following effect; its various clauses referring to controversies with the crown which had occurred at various times: "That the liberties, franchises, privileges, and jurisdictions of parliament, are the undoubted birthright and inheritance of the subjects of England:"—(this was in opposition to the doctrine asserted by the King, that they proceeded from the royal grace :) "That the arduous and urgent affairs concerning the King, State, and defence of the realm, and of the Church of England; the making and maintenance of laws, and redress of mischief and grievances, are proper subjects and matters of counsel and debate in parliament: That in the handling and proceeding of those businesses, every member of the house hath, and of right ought to have, freedom of speech, to propound, treat, reason, and bring to conclusion, the same:" with other clauses of the like nature.\*

980. Charles I. was in conflict with his parliament from the beginning of his reign; but in 1628, he gave his assent to the Petition of Right, which embodies many of the most important parts of the Constitution. This Statute recites the various laws which had established certain essential privileges of the Subject, and enumerates violations of them which had recently occurred in the points of illegal exactions, arbitrary commitments, quartering of soldiers

\* Hallam, *Eng. Const.*, i., 501.

or sailors, and infliction of punishment by martial law ; and then prays the King, " That no man hereafter be compelled to make or yield any gift, loan, benevolence, tax, or such like charge, without common consent by Act of Parliament ; and that no freeman in such manner as is before-mentioned be imprisoned or detained ; and that your majesty would be pleased to remove the said soldiers and marines ; and that your people may not be so burthened in time to come ; and that the aforesaid Commissions for proceeding by martial law may be revoked and annulled ; and that hereafter no Commission of the like nature may issue forth to any person or persons to be executed as aforesaid, lest by colour of them any of your majesty's subjects be destroyed or put to death contrary to the laws and franchises of the land." Proceedings inconsistent with this law were resisted ; as in the Case of Ship-money, in which Hampden refused payment of the illegal exaction. And though the decision of the majority of the judges was against him, this judgment was annulled by the Parliament as soon as it was allowed to meet.

981. But the Parliament, which had so long been the defender, now became the assailant of the Constitution ; and from this time, through the diseased and troubled period of the Civil War and the Usurpation of Cromwell, the public acts, both of Government and of Parliament, no longer express the national judgment of what was just, right, and constitutional ; and have been repudiated by subsequent acts of the nation. Yet even in this time of conflict, we see the reverence with which the forms of the Constitution were retained. The parliament employed the name of the *King*, even in acting against him ; and the King assembled a *Parliament* at Oxford, denying the name to that which sat at Westminster. Even when Cromwell had, by the aid of the army, usurped the power of the Government, he retained the general forms of the constitu-

tion ; a Parliament elected by and representing the nation ; and a House of Lords. And he was constantly told by the lawyers,—that his authority could never be truly valid till he assumed the Title of King ; which was, to use their words, a wheel on which the whole body of the law was carried ; which stood not on the top, but ran through the whole veins and life of the law :—That the nation had ever been a lover of monarchy, and of monarchy under the title of a King :—That, in short, this title of King was the title of the supreme magistrate which the law could take notice of, and no other.

982. The restoration of the Stuart line in Charles II., introduced no change in the principles of the Constitution : for Charles assumed the throne as King of England by law ; and therefore, as bound by all the laws which preceding Parliaments had made, till they were repealed. The Convention Parliament which restored him, not having been called together by royal authority, the validity of its acts was doubtful, till they were confirmed by the succeeding parliament ; but from this time, the monarchy resumed its ancient course. The frequent session of parliament, and its high estimate of its own privileges, furnished a security against illegal taxation ; and from this time we have no more of that grievance, hitherto so common. The power of the Commons to impeach a minister, even for acts performed by the King's command, was established in the case of the Treasurer Danby ; and this led to the decision of several important points, respecting the effect of such impeachment. In this reign, also, the ancient Right to a writ of *Habeas Corpus*, by which Englishmen are protected from illegal or arbitrary imprisonment, was invested with new securities and facilities. The encroachments on the legislative supremacy of parliament, and on the personal right of the subject, by means of Proclamations issued from the Privy Council, which had been fre-

quent under former princes both of the Tudor and of the Stuart families, fell with the odious tribunal, the Star Chamber, by which they had been enforced.

983. It is true, that some persons still held that the Royal Power was absolute, and could not be limited by opposite acts or length of usage. But these doctrines were not those of the Parliament; the attempts to exclude James II. from the throne, showed how large a portion of the sovereign power was held to reside in other branches of the government. And the Revolution, which placed William the Third on the throne, involved a complete repudiation, on the part of the nation, of the doctrines of the Absolute Power, and the indefeasible and imprescriptible Rights, of the King of England. Yet the asserters of the liberty of England, even in this extreme case, attempted to divest their act, as much as possible, of the aspect of violence. The great vote of Jan. 28, 1689, was to the effect that King James II. had "abdicated the government, and that the throne was vacant." In this, it was not pretended that the word "abdicated" was used in its ordinary sense, to denote a voluntary resignation of the crown. It was a somewhat gentler term than "forfeited," which was the notion really intended. But the national act, in this case, went beyond even the meaning of forfeiture; for it disregarded the rights of James's Heirs, and appointed another Sovereign. The modern constitutional writer whom we have mainly followed in our historical survey, says, on this occasion,\* "It was only by recurring to a kind of paramount, and what I may call hyper-constitutional law; a mixture of force, and regard to the national good, which is the best sanction of what is done in revolutions; that the vote of the Commons could be defended. They proceeded, not by the stated rules of the English

\* Hallam, *Eng. Const.*, III., 134.

Government, but the general rights of mankind. They looked not so much to Magna Charta, as the original compact of society, and rejected Coke and Hall for Hooker and Grotius." As we have said (895), Revolutions cannot be justified by stated Rules of Government, but must be defended as Cases of Necessity. The defence of the Revolution of 1688 was, that the constitutional liberty and rational independence in matters of religion, which by the historical education of Englishmen were become necessary to their moral agency and moral progress, could not subsist under princes whose views of the national constitution and national religion were those of the Stuarts : and the proof of this incompatibility, which had been gaining strength ever since the accession of James I., was completed by the last acts of James II. A Revolution of which this is the true defence, conducted calmly, resolutely, and peaceably to its object, may very fitly be called *Glorious*.

984. This great occasion of the assertion of the liberty of England was signalized by the Declaration of Rights, which gave judgment on the past, and maxims for the future acts of the crown. It contains a recital of the arbitrary acts which James had committed, and a condemnation of them as illegal. In this important act, it is declared : " That the pretended power of suspending laws, and the execution of laws, by royal authority without consent of parliament, is illegal : That the pretended power of dispensing with laws by royal authority, without consent of parliament is illegal : That the Commission for creating the late Court of Commissioners for ecclesiastical causes, and all other commissions and courts of the like kind, are illegal and pernicious : That levying of money for or to the use of the crown by pretence of prerogative without grant of parliament, or for longer time, or in other manner than the same

is granted, is illegal: That it is the right of the Subjects to petition the King, and that all commitments or persecutions for such petitions are illegal: That the raising or keeping a standing army within the kingdom in time of peace, unless it be with consent of parliament, is illegal: That the subjects which are protestants, may have arms for their defence suitable to their condition, and as allowed by law: That elections of members of parliament ought to be free: That the freedom of speech, or debates in parliament, ought not to be impeached, or questioned in any court out of parliament: That excessive bail ought not to be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted: That juries ought to be duly empaneled and returned, and that jurors which pass upon men in trials of high treason ought to be freeholders: and That for the redress of all grievances, and for the amending, strengthening, and preserving the laws, parliaments ought to be held frequently." This Declaration was by the Bill of Rights.

985. After the Revolution, the Constitutional Liberty of England seemed to be sufficiently secured; and was so: yet the care of parliament was still employed in devising and enacting further Securities. The appropriation of the revenue by Parliament was carried into further detail, by the separation of the Civil List, and of the Navy, Army, and Ordnance Department, from each other. "This measure has given the House of Commons so effectual a control over the executive power, or more truly speaking, has rendered it so much a participator in that power, that no administration can possibly subsist without its concurrence; nor can the session of parliament be intermitted for an entire year, without leaving both the naval and military force of the kingdom unprovided for."\* The Mutiny Bill also, by which alone

\* Hallam, *Eng. Const.*, iii., 159.



martial law can be administered in the army, was from this time passed only from year to year.

990. The Act of Settlement, by which the Electress Sophia, after the death of Queen Anne, was declared to be the stock of the Royal line, contained further provisions, intended to secure the nation against arbitrary acts of the Court: especially the exclusion of pensioners, and many of the officers of the Crown, from parliament; and the protection of the independence of the Judges, by making their commissions continue *quamdiu se bene gesserint*, during life or good behaviour, instead of *durante bene placito*, as long as the crown chose, which had been the practice.

997. Thus, so far as Parliament was the guardian of the National Liberty, the cause of liberty was fully vindicated: and the doubt might occur, whether, according to the Constitution so modified, Parliament might not sometimes be led, by some special object, to interpose its power so as to obstruct the acts of the crown, and to make government impossible. Order seemed to have been sacrificed to Liberty. But this was not the case. The balance between Order and Liberty was preserved by the struggle which took place within the boundary of Parliament itself. The Influence of the Crown and of the Aristocracy was in that field exerted in favour of Order: and with more steadiness and care, than can be expected, on that side, from the Democracy. The efforts of the Democracy soon began to be directed to diminish or extinguish this Influence. One of the points, which thus came into conflict, was the mode of electing the Members of the House of Commons. By the theory of the Constitution, as it had been commonly stated, these Members were the Representatives of the Common People; but the Advocates of popular Rights asserted that in fact, they were not so; and that the House of

Commons ought to be *reformed*, so as to bring the fact into nearer accordance with the theory of Representation.

988. By the ancient Constitution, the House of Commons was supposed to contain representatives of all the parts of the Empire which were subject to English laws and parliamentary burthens. Henry VIII. extended the right of election to the whole of Wales, the counties of Chester and Monmouth, and even the towns of Berwick and Calais ; and thus added thirty-three members to the Commons.\* Edward VI. created fourteen boroughs, and restored ten, that had disused their privilege. Mary added twenty-one, Elizabeth sixty, and James twenty-seven members. But the design of the great influx of new members from petty boroughs, in these latter reigns, seems to have been to secure the authority of government, which such members were likely to support, rather than to follow out a democratic principle of the Constitution.

989. Four different kind of Electors of the Representatives of Boroughs appear in our Constitutional History. (1) *Members* of Corporations : the municipal magistracy or governing body of the incorporated place ; (2) *Freemen* of Corporations, to whom the elective franchise was given by charters of incorporation ; (3) Electors by *Burgage Tenure* ; where the right was annexed to certain freehold lands or burgages, and did not belong to any persons but such tenants ; (4) The inhabitant householders paying *scot and lot*, which include local and general taxes. This was the original form of the right as enjoyed by Boroughs in the time of Edward I., and was applied to all of a later date, where a franchise of a different nature was not expressed in the charter.

\* Hallam, *Eng. Const.*, III., 50.

990. These varieties in the elective franchise, the various growth and decay of ancient Boroughs, and in some cases the rise of insignificant hamlets into great and wealthy towns, have at all periods produced great deviations from regularity and consistency, in the representative structure of the House of Commons. So long as the struggle of the House with the Crown was an external war, these irregularities were not considered as very prejudicial to the cause of Liberty. Taking the House altogether, the various classes of the Community were virtually, if not actually, represented, as to their interests, arguments, and purposes. But when the battle between Authority and the claims of a larger Liberty was to be fought within the body of the Commons, the mode of electing the individual members became a matter of great moment in the struggle. Those who wished to enlarge the Liberty of the People demanded a Reform of the Parliament, a correction of the Anomalies of its composition, and a more faithful application of the Principle of Representation. Such reforms in special cases would have been consistent with previous history; but the establishment of a new Rule for all cases, was giving a new basis to the House of Commons, and was resisted as a perilous experiment, by the adherents of the ancient forms of Authority. The act for such a new basis of the House of Commons was, however, carried in 1831. In the preamble it is stated to have for its objects "to deprive many inconsiderable places of the right of returning members, to grant such privilege to large, populous, and wealthy towns, to extend the elective franchise to many of His Majesty's subjects who have not heretofore enjoyed the same." By this Act, the voters for Knights of the Shire were to be, in addition to the old electors, the forty-shilling freeholders, copyholders to the extent of ten pounds a year, and other tenants to the extent of fifty pounds.

The voters for Boroughs were to be persons occupying a house in the borough of the value of ten pounds a year. A number of boroughs (sixty) were disfranchised as inconsiderable places ; the criterion adopted being, that the population was less than 2000. A number of other boroughs were allowed only one member, the population being less than 4000. Instead of two members to each county, there were assigned to some of the more populous counties three, to some, four, according to their importance. To towns containing more than 10,000 inhabitants, one representative was given ; and two to places which had 20,000 inhabitants or more.

991. This is now the condition of the electoral franchise. The passing of the Act by which it was established is perhaps the largest attempt ever made at once to bring the Constitution nearer to a theoretical symmetry ; but it is to be recollected, on the other hand, that the deviations of the composition of the representative body from the representative principle had become enormous. One caution, however, is suggested to the admirer of the English Constitution by this circumstance ; In proportion to the largeness of the step made in the Reform Bill, should be the length of time which is allowed to elapse before any new Movement of an extensive nature is attempted. The New Part of the Constitution must have time to incorporate itself with the Old, before the body politic can bear with safety any new experiments. It may be that the Constitution has in this case drawn in a new life by a deep draught of the cup of liberty ; but it is requisite for the health of the nation that this strong potion be allowed time to assimilate with the system, before the draught be repeated.

## CHAPTER X.

## DUTIES OF THE STATE IN GENERAL.

992. We have stated (473) that the State is a moral Agent: it has Duties: as Duties of Justice, Truth, Humanity, and the like. It has also a more general Duty; the Duty of the Moral Education of its citizens. We must now consider further these Duties, and the means of performing them.

Some persons may be disposed to say, that the only Duties of the State are the Duty of protecting the Persons, the Property, and the other material interests of its citizens. And it is true, that all these Duties are Duties in a more vigorous sense than the Duties of Humanity, and the like; they are *Obligations* of the State, and are included in the Obligation of upholding the Laws (850). But the practice of States, in all tranquil and cultured times, has pointed out other Duties of another kind, as belonging to them. If the protection of Person and Property be the stricter, they are also the lower Duties of States: and States in general have recognized higher Duties, in addition to these. They have recognized the Duty of paying their debts, a Duty of Justice: they have recognized the Duty of keeping their Treaties, a Duty of Truth: they have recognized the Duty of preventing Cruelty and Oppression, as in the prohibition of the Slave-trade, a Duty of Humanity: they have recognized the Duty of prohibiting obscene and indecent acts and publications, a Duty of Purity: they have recognized the Duty of assisting and rewarding the progress of science and literature, as for instance, by means of Universities, Observatories, Voyages, and the like, a Duty of Intellectual Culture: finally, they have very generally recognized the Duty of morally Educating the young, of punish-

ing and suppressing immoral books, and of uniting the citizens in general by the ties which common moral instruction produces ; and this is a Duty of Moral Culture. I purposely abstain now from speaking of Religious Culture.

993. If any one were to assert the protection of Person and Property to be the sole duties of States, we should ask, whether he asserts the States to have done wrong, which have recognized the Duties above enumerated. Perhaps some would answer that some of the above Duties, as paying National Debts and keeping National Treaties, are necessary to a good understanding with other Nations, and therefore, necessary to the Duty of national Self-defence, which is a duty of the State in the strictest sense. To this we must reply, that to pay debts and observe contracts, without any love for Justice and Truth, and merely for the purpose of being trusted, is to have a lower standard of Morality than can satisfy most men, even when applied to the State. But we add, that the answer does not apply at all to the instance of Duties of Humanity performed by States, as in the prohibition of the Slave-trade ; nor to the other Duties mentioned. If the only Duties of the States are the protection of the Persons and Property of the Citizens ; then the suppression of cruelty towards defenceless foreigners, the suppression of profligacy and mere vice at home, the encouragement of art, science, and literature, in all their higher forms, the education of children, and of all, except so far as teaching them the Law, must be proceedings with which the State has nothing to do ; and those States which have employed themselves in aiming at such objects by Laws, or by the expenditure of the national wealth, have been altogether in error.

994. The necessity of the State undertaking such duties, in addition to the Obligations of pro-

tecting person and property, may be further illustrated. If we suppose a State which undertakes to protect the persons and property of its members, but disclaims all higher Duties of Humanity, Purity, and the like ; the members, when they have attained to a moderate degree of moral culture, will not be satisfied with the range of action of the State ; and will not acquiesce in the State, as the highest representative of their common action. They will form themselves into Associations for purposes of Justice, Humanity, and other similar objects. These Associations may become so numerous and united, as to elect the magistrates, control the national acts, change the laws, or defeat their execution, and the like ; and thus, may be something exercising higher powers than the State, and reducing that which is formally the State, to a mere mode of action of these Associations. Moreover it is probable that Associations thus bound together voluntarily by a sympathy in Justice and Humanity, will become so powerful as to control or direct the acts of the State, if their Standard of Morality is much higher than that by which the State acts ; and if they, consequently, look upon the formal course of action of the State with no approval or sympathy. For instance, the State may give its members property in slaves ; but if the general body of individuals have arrived at a point of Moral Culture in which they look upon Slavery as unjust and inhuman ; when a man seeks to obtain possession of a slave by course of law, witnesses, judge, and jury (or some of these), will probably act so as to evade, or even to contradict the law ; or the law will soon be altered. Perhaps even the Association may be powerful enough to compel the nation to interfere in behalf of slaves of other countries ; and thus, in such a case, the voluntary Association, and not the Body which is formally the State, acts as the Nation. And in the

same manner, if the State do not attempt to give to the young a moral education, there may be Associations which undertake to do this ; and such Associations, as part of their teaching, may inculcate the injustice or inhumanity of the existing laws. Thus, so far as their teaching is effective, these Associations may produce fundamental changes in the laws, and may direct the National Action in some of the most important points. But further : Moral Education must necessarily depend upon Religion, and will always take the form of Religious Education. Men cannot think much of their Duties, and their Destination, without being led to think of, and to adopt Religion. Religion binds them into Associations, in which they have common convictions, and common privileges, which they earnestly wish to transmit to their children, and to others whom they love. If Classes and Bodies, charged with such objects, be not involved in the composition of the State itself, Societies will be formed, as an addition to the State ; and these will exercise such power, that the State will be subordinate to them, or will be destroyed by them. In the history of States we have many instances of a Religion, independent of the State, displacing the Religion previously adopted by the State ; though the latter has exerted the formal powers of the State in its defence. In several such cases, the struggle between the old and the new Religion has been long and obstinate. But then, the main strength of the defence of the old Religion lay in its being a Religion, satisfying in some degree men's religious needs, and binding them to its cause by religious ties. If the struggle were between a new Religion and no Religion in the State, the success of the Religious Association in obtaining its ascendancy over the State would be, we cannot but suppose, much more rapid. It may, indeed, happen, that in consequence of the existence of several rival



Religious Associations in the State, no one of them obtains a complete Ascendancy over it. In this case, the power, which the Religious Associations in every State possess, is not extinguished, but divided and balanced. But even in this case, Statesmen will find it necessary to recognize, on the part of the State, those Duties, which all the kinds of Religion agree in enjoining. And thus, the State cannot omit to recognize its higher Duties, without putting in the hands of those who do recognize such Duties, the means of combining men into Associations more powerful than the State; the means of converting the State organization into their instrument; the means of acting for the Nation in spite of the State.

995. The necessity of a State recognizing its higher Duties, and especially the Duty of imparting or confirming the religious instruction of its members, appears also by considering the Right of imposing Oaths, which, as we have said, is exercised by all States (841). By the imposition of Oaths, the citizen's Obligations are identified with his religious Duties; and the State relies upon this identity, as necessary to give it a real hold upon men, and to make them do its business in a sincere, serious, and solemn spirit. If the State cannot obtain this result, it will necessarily tend to dissolution. But religious Duties can have no force for men who have no Religion. The State therefore, in order to provide for its own preservation, must maintain the Religion of the citizens in such modes as it can; for instance, by the religious education of the young, and by arrangements for keeping up the religious convictions and religious sympathies of all. If the State do not, by such means, or by some means, keep alive the religious convictions to which it appeals in the Oaths which it imposes, the Oaths will be rejected, or regarded as unmeaning. In such a Case, men, thinking lightly of Oaths, will think

lightly also of Duties and Obligations; and the State will be dissolved by the destruction of all the ties which bind its members to it. Or else, such Oaths will be looked upon as a sinful profanation of true Religion; religious men will refuse to take them, and will give all their efforts to the support of their own Religious Association, which is opposed to the Religion of the State; and thus the actions of such men will tend to destroy the Religion of the State, and perhaps the State itself. It may, indeed, happen, as we have just said, that there are several rival Religions in the State; and in this case, there are especial difficulties in employing Oaths for the purposes of the State, and in keeping up the religious convictions which give Oaths their force. In this case, if all the Religions allow that obedience to the Civil Authorities is a religious Duty, Oaths may still be employed, to promote the lower aim of the State, its own preservation; but the higher aim of the State, the moral and intellectual culture of its members, will necessarily be pursued under great disadvantages; for the moral and intellectual culture of men cannot be prosecuted without employing Religion; and Religion can be employed for such purposes, only by accepting it as true. The State therefore cannot employ, for its higher purposes, Religions which contradict each other; and in such a case as we have spoken of, the State may be prevented from pursuing its higher purposes at all; or may be much impeded in doing so. But even in such cases, the State has those Duties which all the rival Religions agree in recognizing; and has, besides, the Duty of promoting moral and intellectual culture, in conjunction with the true Religion, as far as circumstances permit.

996. Thus, in all cases, States have Duties. The Duties of States may be arranged under the same heads which we have already had before us.

Besides the Duties of Order, by which, especially, the State is the State, there are Duties of Justice, Truth, Humanity, Purity; and there is also the higher and more comprehensive Duty of moral and intellectual Self-culture. The State obtains moral and intellectual Culture for itself, by obtaining it for its members. And thus, the highest and most comprehensive Duty of the State is the moral and intellectual Education of its members. This Duty, as belonging to the State, modifies, in an especial manner, its other Duties; and must be considered in conjunction with all of them, as we shall have occasion to see.

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## CHAPTER XI.

### DUTIES OF THE STATE—JUSTICE AND TRUTH.

997. THE Duties of Justice and Truth, as belonging to States, point out the same course of action which they point out for individuals: they direct the State to abstain from infringing the Property or Rights of other States; to pay its Debts; to observe its Treaties; and the like. In these instances, the Duties have analogy with the Legal Obligations, rather than with the Moral Duties of individuals; and accordingly, these Duties are the subject of an especial branch of Law or *Jus*; which we may term International Law, or *International Jus*, and which we shall treat of afterwards.

998. But the Duties of Justice and Truth, as belonging to the State, have also their Sphere of Action within the State; they require, for instance, that both the Laws, and the Administration of the Laws, be conformable to Justice and Truth. We have already stated (393) a general Maxim of

*Justice*, which applies especially to Legislation : namely, that Justice requires us to aim constantly to remedy the inequalities which History produces. And this maxim applies to all the matters with which Law deals ; to personal Rights, to Property, to Education. In these matters, Justice does not require Equality. Any Attempt to establish Equality would tend to destroy all Property, all Law, and all Right ; for if Rights be permanent, their permanent subsistence will produce Inequality. But Justice aims constantly to remedy Inequality. Hence Laws should aim continually to enrich the poor, to strengthen the weak, to elevate the low, to instruct the ignorant. But they should do this, in such a manner, as not to shake at all the permanence of Rights. They should enable the poor to enrich themselves, the low to rise, the ignorant to learn, by the use of their own Rights, and without trespassing upon the Rights of any other Class. Just Laws will not transfer Property from one Class to another, merely in order to restore equality. Just laws will not direct the poorest to be educated in the same degree as the richest. But Just Laws will not allow a condition of the community, in which any Class is condemned to a degradation, or poverty, or ignorance, from which they cannot escape. Just Laws will provide openings for the rise of the lower ranks into the place of the higher, as soon as they become fit for such a rise ; and will assist such an event, by promoting, among the higher ranks also, such views as will make them regard this event, not as an evil, but as a good.

999. The regard of the State for the Duty of *Truth* will be shown both by the simplicity and sincerity of its own proceedings, and by its encouraging and promoting this Duty in individuals. For instances of the former kind, we may take the abolition of legal fictions and the removal of forced construc-

tions of old laws by means of improved laws. Such steps make the language spoken by the State more true. Yet in the case of States, much more than in the case of individuals, we must take account of the Conventions (394) by which words, phrases, and processes, acquire a meaning different from their obvious meaning. This is more necessary in the case of States, because it is impossible for States to accommodate their language to each case, as individuals may do. States must act by stated forms of procedure and language, in which forms a complex multitude of interests are implied; and any alteration of the forms, since it will require a consideration of all these interests, and an agreement upon the alteration by the legislating bodies, cannot take place frequently and lightly, nor ought it to do so. Legal fictions, and forced constructions of the language of old laws, cannot be altogether avoided. They have existed in all countries in which laws have long subsisted; and to attempt to avoid them entirely, would be to make the legislator instantly conform to all changes, however capricious, of language and practice. Law Language, and Law Forms, must have an antiquated cast, for this reason; that they must have in them a principle of steadiness and permanence beyond our daily speech and common manners.

1000. The State promotes and inculcates the Duty of Truth in individuals, by requiring from them a punctual and faithful performance of Contracts and other engagements. Yet here also, the consideration of other Duties comes in; and limits, in some degree, the extent to which the State insists upon the performance of Engagements. We have seen that the Roman Law did not compel the performance of a *nudum pactum*, a mere promise made for no reasonable consideration; and that the English Law takes the same course. The Law will not, for instance, sanction or enforce an engagement to win and lose

money according to the events of a game of chance. To insist upon the performance of such engagements, would be to encourage a reckless spirit, which loves to depend upon casual superiority, or upon mere accident, rather than on rational foresight and self-guidance. The State, in such cases, teaches its citizens that Property is a Trust of more value than the Veracity of such rash and reckless promisers. The State, in doing this, does not slight the Duty of Truth; on the contrary, it sometimes condemns the whole proceeding, by making such Gambling a crime. Besides; such engagements are so frequently and so naturally connected with Fraud, as well as Folly, that Honesty, as well as the rational use of Property, would be damaged by the legal recognition of such Engagements.

1001. In another kind of Engagements, Promises of Marriage, the Law teaches the Duty of Truth, by punishing the violation of the Promise; and sometimes, even when it has not been made in express words, but only implied in the general course of the language used between the parties. And though, here also, there may be room for Mistake or Delusion; to punish the Levity or Duplicity which can trifle with so serious a matter, is a moral lesson which it becomes the State to give.

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## CHAPTER XII.

### DUTIES OF THE STATE—HUMANITY.

1002. THE Duty of Justice on the part of the State is universally allowed: that the State has a Duty of Humanity, is perhaps not so generally understood. But we have seen (508 and 514), in speak-

ing of Justice and of Humanity in general, how near the Duties belonging to the two approach each other, and how difficult it is to draw the boundary line. It is a Principle of Humanity, and, in an extended sense of Justice, a Principle of Justice also, that all men should possess the Natural Rights of man; namely (514), the Rights of Personal Security from violence; of Subsistence and Property so far as is requisite for moral agency; and of Marriage. Such Rights, in every State, are actually possessed by the citizens only so far as the Law allows them; but the question now before us is, what the Laws *ought* to do; what Civil Rights it is the State's Duty to give to its citizens.

1003. We have already seen (522) that the existence of Slavery is contrary to Morality. Such a condition of the community is a violation of the Duty of Humanity which belongs to the State; and wherever it exists, Humanity requires that the State should take steps towards its abolition. But we have also said (530) that the abolition ought to proceed by legal and constitutional means; and must often be attained only by many steps, and by slow degrees. Still, it must be again repeated; delay in this course can be tolerated by the Moralist, only so far as it is inevitable. Every State which acquiesces in the existence of Slavery among its members, as a permanent and stable condition of things, neglects the great Duty of Humanity, which is incumbent upon States as upon individuals. A State cannot neglect such Duties, without divesting itself, to an extent shocking to all good men, of its moral character, and renouncing its hope of that moral progress which is its highest purpose.

1004. Slavery involves the denial of all Rights to the man, and especially of the Right of security from arbitrary personal violence, and the Right of Property. But even in States where these Rights

are allowed by the Law to all, it often happens that there are Classes of persons who do not practically enjoy them. With regard to the Right of Sustenance, and such Property as is requisite to make the man a moral agent, there are large bodies of the people, even in States conspicuous for their general freedom, who hold these necessary means of moral being very precariously, and occasionally lose them altogether. Men perish of hunger in opulent cities. Many are mendicants, who are supposed to have nothing of their own, and depend for sustenance upon the casual bounty of their fellow-citizens. Many, belonging to the industrious classes, are frequently destitute; though willing to work, they can find no one to hire them, and they have expended all their previous earnings. Does the Duty of Humanity in the State admit of its tolerating the existence of such things? To pass by the Right to sustenance, in cases of extremity, which, as we have seen, the Humanity of the old law of England allowed, is it possible for the State to put an end to Mendicancy and Destitution? and if this be possible, is this the Duty of the State?

1005. We find, in this case also, other Duties of the State which may interfere with the Duty of Humanity, and may limit or prevent its operation. It is the Duty of the State to leave room for the exercise of the Humanity of individuals; for this is an important part of their Moral Culture. If the Beggar obtains alms on which he can live; if the poor Labourer be supported through his seasons of destitution by the benevolence of his richer neighbours; the men so provided for are not degraded from the rank of moral beings; and the givers are probably morally improved by what they do. Such dependence of the poor upon the rich, has existed in all communities; and it is not necessarily contrary to the Duty of the State to tolerate such a condition of



things, which includes the means of a valuable Moral Culture of Benevolence. Moreover, it is the Duty of the State to teach Foresight and Thrift to the poor, as well as Benevolence to the rich. Beggary, destitution, and want of work, may arise from improvidence, carelessness, prodigality, idleness, and perverseness. By letting the consequences of these bad habits fall upon those who are guilty of them, the State teaches useful lessons. If the State were to maintain in comfort all who chose to beg, or all labourers who remained unhired, the produce of the labour of the industrious and provident would be given to the idle and improvident; and this might proceed to such an extent, as to destroy the rewards of labour and the value of property.

1006. But if it appear that the destitute are not provided for sufficiently by the benevolence of individuals, what then is the Duty of the State? If, when room is thus left for the Humanity of the rich to act, it appears that there is still a large class of starving poor, what is the course to be taken? If benevolent individuals do much, but still not enough to prevent the existence of extreme distress among numbers of men, is it the Duty of the State to do the rest? And if so, how is this Duty to be limited, so as not to interfere fatally with the other Duties of the State which we have mentioned? Ought there to be a State Provision for the poor? and if so, upon what Principles?

1007. To the first of these questions the Moralists must needs reply, that taking the case as here supposed, the spontaneous bounty of the rich being insufficient to keep the poor from starvation, it is the Duty of the State to interpose, and to make, by taxation, or in some other way, a provision which shall save them from the extreme of want. This is a Duty of Humanity on the part of the State in any case. If the deficiency of private bounty arises

from the want of benevolence towards their poor neighbours on the part of the rich, it is the business of the State to be humane for the rich, both in order to discharge its own Duty, and to teach them theirs. If the prevalence of distress arise, not so much from men's wanting the benevolence to relieve the distress which is brought before them, as from the multitude, density, and variety of the population, which conceals large classes of sufferers from the eyes of their fellow-citizens ; it is then proper that the State should be humane for all and towards all, in order to supply, for the benevolent citizens, that which they cannot do for themselves : for the State has the means of reaching all classes ; and can diffuse relief more widely than private givers can.

1008. With regard to the Principles on which such public Relief is to be given, we may remark ; First, that the Relief ought always to be contemplated as *temporary*. For the object of humanity is, that the man be preserved as a moral agent ; but man, in a state of unlimited and hopeless destitution, is not capable of moral agency. He has not the means of self-guidance and advancement, which are requisite to his moral being. If a man, by accepting public relief, is placed in a condition in which there is a permanent bar to his becoming again an independent and thriving labourer, the object of humanity is defeated, and the man is reduced to a kind of servitude. Hence, it would be a mistake to require a man to sell or part with the tools of his trade, or the furniture of his house, before he receives public relief : for the want of these things will be a most serious obstacle to his resuming his character as an independent workman. On the other hand, in order that the State may not teach lessons of improvidence and idleness, it is necessary that the public relief be given on harder terms than the wages of independent labour. For the poor must be taught to earn

their subsistence independently, as long as it is possible; and to recur to public charity, only in cases of necessity. These conditions appear to be satisfied if we make public relief come to the labourer, in the shape of wages for labour at some public work; the wages being smaller than those of the independent labourer, and yet sufficient for subsistence. In such a system, it may be supposed that men would claim public relief, only so long as it was necessary; and would gladly return to independent labour, as soon as it was possible; while at the same time, relief to the extent of necessary subsistence, would always be within their power.

1009. There can hardly be much difficulty in devising works which might be so conducted; especially if it be recollected that the question is not, whether such works will pay for the labour, but whether they will pay better than supporting the labourers in idleness. As instances of such works, we may mention making and repairing roads, harbours, canals, leveling obstacles, reclaiming wild land, draining morasses, building public edifices, ships, and the like.

1010. It may be a question whether the relief of *Paupers* (as poor persons relieved by the State may be termed, for the sake of distinction) should be administered by the general Government: or whether the paupers belonging to districts, as Parishes, should have relief administered each by his own Parish. The latter scheme appears, at first sight, better suited to make the relief—both a lesson of humanity to the givers, since it is bestowed on their neighbours, whose distress they know—and a lesson of industry and economy to the receivers, since, if they are idle and improvident, their neighbours, who know their conduct, will be disposed to show them less favour, in the public relief which they give them. If indeed there be a *Poor Law*, which gives

the unhired labourer a Right to a sufficient relief, whatever be the judgment which the Parish Officers form of his willingness to work, the relief may be considered by the givers as an unmerited boon, and by the receivers as an undeniable right ; and thus, may produce unkindly feelings on both sides, while it encourages improvidence and idleness as much as the most ineffective benevolence would do. On the other hand, humanity rejects the notion that the destitute should have no right to a subsistence. A mode of avoiding these opposite inconveniences, retaining the administration by Districts, appears to be that already mentioned ; the employment of the unhired labourers upon a public work, at wages below those of the independent labourer, and yet sufficient for subsistence. But here an inconvenience of another kind may come in. If the administrators of the poor-laws be also the employers of labour, they may agree to employ the unhired labourers upon their private work, instead of public work ; and may, thus, bring them into competition with the independent labourer ; they may thus lower the wages of all, while they pay a part of the wages of their private work out of public funds. This might be remedied, if there were in each parish, or in each district, a work really public, and if the independent labourer were always at liberty to seek work there. For then the employers of labour would always be compelled to give to labour the wages which it deserved.

1011. But this plan is applicable, only when the number of persons to be provided for out of public charity is small, compared with the whole number of labourers. If a large portion of the labouring population were to ask for public relief, the condition of the community must be considered diseased : for by our supposition, public relief supplies only a bare subsistence : and, while it lasts, takes away a man's free agency, and suspends his moral advancement ;

besides which, it might be difficult to find in every district an unlimited supply of public work. In such a case, when great numbers of the poor are unemployed, what is the State to do?

1012. We may remark, that there appears, at least at first sight, to be a tendency to such a state of things, in consequence of the improvements constantly going on in the productive powers of labour, and especially of agricultural labour. Our rural districts employed more labourers in ancient time, when a rude husbandry raised a scanty produce, than they do now. The produce of the land is much greater, but the portion of it assigned as wages to the agricultural labourer is smaller. The surplus goes to the Farmer as Profit, and to the Landlord as Rent. And this arises, generally, not from any want of humanity in the Landlord or in the Farmer, but from the progress of agricultural improvement. If the Landlord diminish his Rent, the Farmer puts the allowance in his pocket. If one Farmer pay his labourers higher wages, or employ a greater number, the Relief to the general body is small: for the general rate of wages will be determined, not by considerations of Humanity, but by the operation of the Demand and the Supply of Labour. We cannot expect a universal agreement among the Employers of Labour to increase the amount paid in Wages. A great number of them could not do this, without annihilating their profits, and subjecting themselves to positive expenses; and if partially done, it would produce little effect beyond a rush of labour from one employment to another. Hence, the State cannot require that men should show their Humanity by lowering their Rents, or their Profits, or increasing the Wages which they pay. It may be well that individuals should do this; both as an exercise of humanity, and of moderation with regard to wealth. But the nature of such self-discipline requires that it

should be spontaneous, and enforced by external control. The State must leave Rents, Profits, and Wages, to be regulated by their appropriate influences.

1013. What, then, is to be done with regard to the numbers who may be expected to be thrown out of agricultural employment by the improvements in agriculture? If we consider what form of society would be ideally the best under such circumstances, the system which we should picture to ourselves would seem to be something of this kind. We should conceive that, while the poor portion of mere labourers, actually required, was constantly diminishing, the structure of society, both with respect to the conduct of the powers of labour, and the habits of domestic life, should change, so as to provide many new ranks and stages in the community, on which men might stand; and many new employments, by means of which they might obtain their share in the increased sustenance and comfort produced by the improvements in labour. Instead of merely the Landlord cultivating his own acres, with his Hinds and Labourers under him, in home-made clothing amid home-made tools and instruments; we may have many classes arising between these two, each living in some degree of comfort, and even ease. The Farmer steps in between the Landlord and the Labourer. He employs the Wheelwright and other makers of agricultural implements; the Corn-dealer; the Carrier. His attire is furnished by Growers, Spinners, Weavers, Clothiers of various kinds. His house is furnished with implements of wood, iron, brass, silver, gold, glass, porcelain. The manufacturer or tradesman, who supplies each article, has many men working under him, and is himself surrounded by the like luxuries. There are many gradations of tradesmen of each kind; many manufacturers subordinate to each tradesman, many trades-

men to each manufacturer. Classes so complex require many persons to facilitate and regulate their intercourse: Brokers; Factors; Notaries; Men of Law; Commercial Travellers; and all these classes, thus introduced, are, in gains and habits, much above the mere labourer. And thus, so far as the growth of these employments goes, there is a constant opening for those who are no longer needed as labourers. When the proportion of mere labourers in a community diminishes, in consequence of improvements in the art of labour, it is not that any are extinguished or extruded; a portion, who, if the state of the community had continued unchanged, would have been labourers, are elevated into something more. There is a constant current upwards, in a thriving society; and the multiplication of intermediate classes provides for the increasing distances between the highest and the lowest. The agricultural classes produce food for an increased number of persons in addition to themselves; and the multiplied occupations bring forward persons who receive their share with advantage to all.

1014. We have evidence that in England the advance of which we hear speak has gone very far, in comparison with most countries. In all other countries, the agricultural classes are the largest share of the population. In France, for instance, they are two-thirds of the whole. Two agriculturists support one non-agriculturist, besides themselves. But in England, the non-agricultural is twice the agricultural population. Two agriculturists support four non-agriculturists.\* And these four receive their support, as members of some or other of the various trades and occupations which have gradually grown up, amid the increased activity and multiplied hearings of our industry.

\* Jones, *On Rent*, p. 230.

1015. I have spoken of the increase of the productive powers in *agricultural* labour, because that labour belongs to the earliest condition of mankind, and is always the most indispensable. But improvements may be made in other kinds of labour also, by which its powers may be increased, and at least for a time, a number of persons may be thrown out of work. And this is more likely to happen in manufactures than in agriculture; because improvements are always slowly and gradually introduced in agriculture, but in manufactures often suddenly and rapidly. But on the other hand, the desire for manufactured goods may be extended much further than the desire for food, which is confined within moderate limits; and therefore, it may often happen, that when a body of labourers have been at first thrown out of work, by some improvement in manufactures, which dispensed with their labour, they may have been again absorbed by the manufactories, in order to provide for the increased sale of manufactures to which the diminished prices had given occasion.

1016. But we can hardly venture to assert that the multiplication of trades, and the extended use of manufactures taken together, will always provide an adequate employment and subsistence for the numbers thrown out of work by the improvements in agriculture and manufactures. And even if agriculture be unprogressive, and manufactures of small amount, the numbers of the people may multiply so that it is difficult for them to procure subsistence. If this happen, under a Government in which the sense of Duty is not unfolded, or in one in which it is rejected, the people will be left to struggle with their needs for themselves; and the hard discipline of want or famine will limit their increase, or dispose of the superfluous numbers.

1017. It has been sometimes said, that when



the number of the labouring population are too great, it is the consequence of their own improvidence; that they ought not to marry and produce children except they have a reasonable prospect of being able to support them; that they have the remedy in their own hands; since, by abstinence from marriage, they may limit their numbers, and reduce them to that amount for which the condition of society has need, and which it will willingly support.

1014. But this, though sometimes said by very humane persons, appears to be contrary to all consistent humanity. To expect that the labouring classes shall, by general consent, take the course thus recommended, is to expect that they, the most ignorant and helpless class, shall act for the State; and shall act with more foresight, combination, and self-denial, than any State has even yet acted. And if it be merely meant that each poor man should, for himself, act thus; it may be true, that such Forecast is a Duty; but to this may be opposed, in many or most cases, other Duties; the Duty of Chastity, and the Duty of promoting the happiness of those we love. For it can hardly be meant that a poor man shall never love. We may add, too, that when a man looks to little more than a subsistence for himself and his family, he may, under the influence of love and hope, frequently reckon upon so much when he does not find it; and often his destitution may come by some change which no forecast could have divined. But supposing there be a great number of unemployed poor who are there because they have neglected such duties as these; still the question recurs, What is the State to do respecting them? To say that they have neglected their Duty, besides being of no use in pointing out the remedy for the evil, has the fault of being a one-sided censure. For it is equally probable that their richer neighbours also have neglected *their* Duty; in not employing

them for humanity's sake, as well as for the sake of gain; in not warning and superintending the poor; in not helping them at an earlier period; and the like. And both parties being thus to blame, there appears a kind of cruelty in applying the censure to the party who are already suffering the consequences of their fault, in the bitterness of want and destitution, and with no power of deriving present relief from the course suggested to them.

1019. To the question, What is the State to do in such a case? we reply, that if the number of the destitute be so great that they cannot be employed upon public works at home, as we have suggested, it appears to be well worth consideration whether a number of them might not be encouraged to emigrate to some foreign country, uninhabited or slightly cultivated, in which their labour might procure them an abundant subsistence. Such Colonies have, in all ages, been frequently established as a vent for the overflowing population of a State; and in most instances, with mutual benefits to the Mother Country and to the Colony. Such lands are easily found, and may be occupied for such purposes, with a just regard to the claims and interests of the original inhabitants.

1020. But though the Emigration of labourers may thus be a highly beneficial resource, if there be a temporary superabundance of that class, and no vacant occupation for them at home; it appears very doubtful whether the State ought to reckon upon Emigration as an habitual resource against the evils of a too rapidly growing population. So far, indeed, as Emigration is the spontaneous act of individuals, it belongs to the habits of the people and is taken into account by families, and heads of families, in forming their scheme of life. But an Emigration on a large scale, conducted by the State, and composed mainly of destitute persons, makes too abrupt a

change in the community to be entirely wholesome, and must needs be an expensive mode of providing for the emigrants. For they must be supported, not only on the voyage, but till they can support themselves in the Colony. A policy more generally wise, appears to be, to facilitate as much as possible that rise of men from the lower to the higher classes of society by which the lowest are prevented from being too numerous ; and to encourage that increased use of manufactures of all kinds, which, as we have said, is the most general resource against the temporary inconveniences arising from increased manufacturing power.

1021. I have discussed the question of poor-laws so far, with reference to able-bodied labourers, because if it be allowed to be the Duty of the State to make provision for them, it will hardly be denied with regard to the aged and infirm. Yet even with regard to these, there are not wanting important considerations which may modify this Duty. It is desirable, as an exercise of prudence and forethought, that labourers, as well as others, should save in the season of health and manhood something on which they may subsist in sickness and in age. It is desirable, as an exercise of family Affection, that aged and infirm persons should be supported and nursed by their children and near relatives. If the State be too ready to take upon itself the burthen of aged and infirm persons, children may feel less responsible for the comfort of their aged parents ; parents, for that of their sick children ; and other members of families, in like manner, with respect to each other : and thus, the family affections may be chilled, and family claims disregarded. And this danger is so far worth attention, that if a parent, or child, or wife, or husband, of persons who have enough and to spare, apply for public charity, the officers may properly reject the claim, and cast the applicant upon the care of his

relatives; not relieving him except when his necessities have stamped his relatives with the disgrace of want of natural affection. And the lesson of the Duty of natural affection, and love of independence for our relatives as well as ourselves, which the State thus teaches, is to be extended as far as may be, even among the poorer classes. If, however, at last there remain aged and infirm persons not duly cared for by their relatives, they are proper objects of the care of the State.

1022. We have been proceeding, all through the argument, upon the supposition that voluntary charity is insufficient to relieve the distress which exists: but in every community, the question may be asked, Is this so? Is legal provision for the poor necessary, because voluntary charity is insufficient? And it has been urged that the connexion may happen to be in the reverse order; that voluntary charity may be insufficient, because legal provision is established. For men, it is said, if they are compelled by law to contribute to the support of the poor, think their Duty towards them quite fulfilled; and will not exercise voluntary, as well as involuntary bounty; but if they be left to the workings of their own hearts, and to the influence of the distress which they witness among their neighbours, they will give kindly, the poor will receive gratefully, and the effects will be better than any which a compulsory provision, a Poor-law, could produce. And this real charity to neighbours, which is exercised in the absence of a Poor-law, will not be confined to the rich; even the poor will give to those who are still poorer than themselves, and all ranks will be bound together by ties of kindness.

1023. Whether the State provision for the poor shall or shall not freeze the spontaneous charity of individuals, as here asserted, will depend much upon whether those who are taxed, on this account, look

upon the State as acting towards the poor *for* them, or *for* the poor *against* them. If the former be the case, which is what we have supposed ; if the State be looked upon as executing the benevolent intentions of the citizens, and thus, as supplying the inevitable deficiencies which must occur in the practical working of the charity of private persons, however benevolent and however vigilant, there appears to be no reason to fear that the public stream will stop the private sources. We do not find that the State's taking into its hand the enforcement of Ownership or of Contracts weakens men's habits of Justice and Truth ; except that in cases where the Government is hated, men are willing to defeat the administration of the Law. Where men look upon the Laws as conformable to Justice, they readily help to enforce them ; and in cases which the Law does not reach, they are the more likely to act justly, on account of their having promoted the administration of justice by the Law. In like manner, if men look upon a poor-law as humane, and approve it on that account ; they are likely both to make the law effective for the purposes of humanity ; and when the law falls short of the measure of their humanity, to supply its defects by their own voluntary acts. They are the Nation ; the law is *their* law ; it is one part of their dealings towards their poorer friends and fellow-citizens, but necessarily one part only.

1024. The example of England appears to show that a legal provision for the poor does not extinguish the disposition to spontaneous charity. In this country, all lands and houses are taxed for the relief of the poor ; and this tax may be considered as a condition of the tenure of property. And yet there is, perhaps, no country in which there is more spontaneous charity ; especially if we include, in this expression, the relief of the poor in the various forms in which it is undertaken by Charitable Societies.

These Associations are something intermediate, in their nature, between the State and an individual; and they show, that the humanity of Englishmen does, as we have intimated, look upon the relief given to the poor by the State, as insufficient; and seeks to supply the deficiency, by supplementary bodies. These Associations, again, do not supersede the Duty and the necessity of individual Charity. The Charity of each person to his immediate neighbours is especially a Duty; for of their distresses, he sees something, and gives to them because he feels for them. Not only no act of the State, but no participation in associations, can supersede this Duty, as a necessary part of our Moral Culture. We may add also, that it does not seem likely that individual charity, in addition to the operation of Societies, will ever cease to be needed, or will ever be less needed, in order to relieve the distress which prevails in various forms. The forms of misery multiply so fast, and the number of the distressed is so great, that charity is never entirely victorious in her struggle with them. Or rather, all the exertions which we make are quite insufficient to bring the distressed part of the people into a condition which our humanity can contemplate with any satisfaction. All that we do, serves to show us, among other things, this; that both the State and individuals must cultivate the Principle of Humanity within them to a far higher degree than they have yet done, in order that their moral condition may correspond to the actual condition of things, and in order that the continued moral and intellectual progress of the nation may be possible.

1025. If we can see, even by the light of rational morality alone, the necessity of thus cultivating our Humanity by acts of Kindness and bounty to the poor, this is still more strongly brought to our Conviction when we take into our account Christian

**Morality.** The teaching of Christ and his Apostles accepts all the precepts of this kind which prevailed among the Jews, and carries them further. Yet in the Jewish law, bounty to the poor was largely enjoined. The Jews were forbidden to glean their vineyards, and commanded to leave something for the poor and the stranger (Lev. xix., 10). They were directed to lend to their poorer neighbours, even when likely to lose what they lent (Deut. xv., 9). And almsgiving was among them one of the most necessary practices of a good man. Christ exhorted his disciples to carry this practice still further (Matth. v., 42): *Give to him that asketh thee.* He himself was in the habit of giving money to the poor (Joh. xiii., 29). The early Christian congregations made frequent contributions for the poor (Rom. xv., 26. Gal. ii., 10, &c). And this was often urged as a duty in Apostolic injunctions. The Christians were recommended to lay aside something for this purpose on the first day of the week, according as God had prospered them (1 Cor. xvi., 2). And such a collection on the Lord's day has continued to be a very general practice of Christian congregations, up to our own time. In England, indeed, it has been discontinued; perhaps in a great measure in consequence of the absolute right to relief which the laws gave to the poor. But there appears to be no reason why the Humanity of the State should supersede the Christian Charity of the Congregation. There is, as we have said, abundant room for the exercise of both. We have already seen (602, 614) how strongly benevolence to the poor is urged upon us as a part of Christian Morality.

1026. There is another way in which the Laws of some States, and of England among the number, express the humanity of the humane citizens, and teach a lesson of that virtue to those that need it: namely, by forbidding cruelty to animals, and making

it penal. This is a remarkable kind of Law, as being a very distinct instance of Laws dealing with manners, as evidence of vicious dispositions, where no Rights are violated. For animals can have no Rights. And if it be said that humane men have a Right not to be shocked by the sight of wanton cruelty, it may be said on the same ground that truth-loving men have a Right not to be shocked by wanton lying; and the like; which probably no one would assert as a ground of legislation.

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## CHAPTER XIII.

### DUTIES OF THE STATE—PURITY.

1027. THE Duties of the State connected with Purity are principally those which concern the Institution of Marriage, which is the foundation of the notion of Purity, so far as regards the Intercourse of the Sexes. The State takes the course which the Duty of Purity prescribes for it, when it establishes and sanctions the Marriage Union, punishes Offences against it, makes it a source of Rights to the married Persons and to their children. But a regard for Purity imposes still other Duties on the State with respect to this Institution. It is the business of the State, aiming at moral purposes, not only to sanction Marriages such as belong to the manners of any stage of society, but also to purify and elevate the conception of the Marriage Union itself. Marriage must be, for instance, a union of the married persons upon equal terms, so far as the conditions of the two sexes allow; with an identification of their interests, and an engagement of permanent and obligatory community of life. The Law teaches this, by pro-



hibiting Polygamy ; and by denying the Rights of children to the offspring of mere Concubines.

1028. The closeness of the jural and moral union between two married persons may still further be taught by the Law, in its provisions concerning *Divorce*, the release of married persons from the marriage tie. The entire union of interests, affections, and life, which forms the highest conception of marriage, is expressed in Law, by making marriages indissoluble, and prohibiting Divorce altogether. It may perhaps be said, that this is legislating upon a standard of Morality too high for any existing state of society. It may be said, that the man and the woman may, after marriage, find themselves mistaken with regard to the union of hearts, and harmony of dispositions, which they supposed. They may come to hate each other, as much as they ought to love. Can it answer the purposes of Marriage to prohibit such persons from separating.

1029. It may perhaps be further urged, that to shape Laws by this scheme of teaching a pure morality, is visionary and mischievous: visionary, because it will not succeed ; mischievous, because the law deprives some persons of Rights, or makes them miserable, in its attempts to teach others. It may be added, that the true way to legislate concerning Marriage, is to treat it as a Contract, which it is ; to make such provisions as shall most promote the benefit of the Contracting Parties : and among others, what more obvious than this : than when both the Contracting Parties, who must know best, find the engagement a source of unhappiness, they shall be at liberty to dissolve it ?

1030. To this we reply, that if we take this Principle simply, that the union of the Sexes is a matter of Contract, and that the Contract may at any time be dissolved by the joint agreement of the parties, we must abolish the Laws against Polygamy,

and place illegitimate and legitimate children upon the same footing. For this Principle leaves no distinction possible between Marriage and Concubinage. If *any* voluntary engagement of cohabitation, for *any* time, be Marriage, there is no need for any Law respecting Marriage. The Law, which requires an engagement of permanency, in order that the Marriage may have legal consequences, limits the freedom of such Contracts; and does so, in order that the Marriage Contract may be more nearly what it ought to be. Concubinage and Marriage are distinguished, in order that an entire union of two persons, for social and moral, and not merely sensual purposes, may be honoured and practised. No union is acknowledged as Marriage, which does not profess to be for life. It has been said, that if men and women were left free to settle the terms of the Marriage Contract, they would, in most cases, be led to make it a Contract for life. The number of cases of Concubinage show that this is true only in a very limited sense. But even if this were true, why does the Legislator reject the cases in which the parties do not wish this? If persons wish to make such a Contract for a limited time, why does he not sanction and enforce it? Why does he, on the contrary, make rules which stamp it with a character of degradation and disgrace? Manifestly, because he wishes to impress upon the citizens the great social and moral dignity of a complete union for life, and its superiority over a temporary or capricious cohabitation. Every Law, then, which establishes Marriage, must have for its object to teach what Marriage ought to be.

1031. But Marriage ought to be, not only an engagement of mutual affection for life, but also a provision for rearing a family of children; and this is a further reason against allowing a Marriage, once made, to be dissolved. While the children are

young, the continued union of the parents is necessary for the support, protection, and education of the woman and the children. And the necessary offices of mutual service among the members of the Family, cannot be effectually performed, except they arise, not from the terms of a Contract, but from the family affections: and such affections must want the very nature of love, if they can look forward to the time when they can terminate. The ties of Family and Society are not commonly looked upon as the Obligations of a Contract, which may be dissolved at the Will of the parties. The Law of Marriage would be at variance with the general feeling of mankind, if it so treated them. Men do not think those excusable who desert their children, or their parents, in their need, even if it had been previously agreed between the parties that they should be nothing to each other. And further: as we consider it a Duty and even an Obligation of the parents to support and educate the children, it is also a Duty to give them that Family Education which the permanent union of the parents alone can give.

1682. In order to show that the divorce of the parents would not deprive the children of necessary support, care, and connexion, it has been urged that marriages are constantly dissolved by the death of the parties, at all ages of the children; and that this event does not prevent the proper education of the children. And undoubtedly, if the parents be separated, by whatever event, the children may still be brought up, and even excellently brought up. But among the beneficial influences which operate to form their hearts and moral principles, their regard towards their parents must have an important place. And it must make a very material difference in this regard, whether they have to look upon their parents as united by an affection which lasted through life, though one be now taken away: or as separated by a voluntary

act, and perhaps living in wedlock with new spouses. If the Law lend its aid to the distribution of the children in such cases, as readily and as approvingly as to the arrangements of an unbroken family : it presents to us a Conception of Marriage much lower and less pure than that to which a moderate moral culture directs us.

1033. It is said that an engagement to retain our affection through life is absurd, since we cannot command our affections ; and that to bind two persons together, who have come to hate, instead of love each other, is to inflict upon them an useless torment. But though we cannot command our affections, we can examine our hearts before we make the engagement : when this is faithfully done, married life itself, well-conducted, tends to give permanency to affection ; and nothing can more impress upon us the necessity of being faithful to our hearts in the choice we make, than the knowledge that the step, once taken, is taken for life. Again, this same knowledge, that the union cannot be dissolved, tends to control the impulses of caprice, ill-temper, and weariness, in married life ; and to keep two people together, and on the whole, very tolerably happy, who might have separated on some transient provocation, if Divorce had been easily attainable. And thus, the exclusion of Divorce tends both ways to the promotion of conjugal love and conjugal happiness.

1034. All that we have hitherto said, tends to this : not that, in any given state of society, Divorce should be absolutely prohibited ; but that the highest Conception of Marriage is expressed by making Marriage indissoluble ; that the Duty of the State, which is, among other Duties, to establish such Laws as may maintain and elevate the Moral Culture of the citizens, requires the Lawgiver constantly to tend towards this Conception of Marriage, and this condition. Whether, at the existing point of the moral

progress of this Country, the moral teaching of the Law is made most effectual by prohibiting Divorce in general (allowing it only as the consequence of adultery on one side, and then with great difficulty), I shall not attempt to decide.

1085. So far, we have considered the subject in the light in which it is presented to us by Rational Morality. If we now take into account Christian Morality, we find that in it the highest view which we can form of the entireness and permanence of the marriage union is confirmed. We have already noticed (683) the condemnation delivered by Jesus Christ against the practice of Divorce, as it then existed among the Jews. It has been most commonly understood, that these expressions contain a condemnation of Divorce under all circumstances, except in the case of adultery. But there have not been wanting those who have explained these passages otherwise. They say that when it said, *Those whom God hath joined together, let not man put asunder*, we are to recollect that God has not joined together those between whom there is a settled unfitness for the marriage union, though man may have done so. When it is said that Moses allowed Divorce to the Jews *for the hardness of their heart*, it cannot be meant that he allowed a sin which, according to that interpretation, is equivalent to adultery. Divorce was allowed for the hardness of men's hearts, as all law exists in consequence of the hardness of men's hearts, that is, in consequence of their tendency to do wrong. Divorce was given especially for the hardness of heart of those who abused the privilege at the time of our Saviour, for it was the means of their showing the hardness of their hearts. And when it is said, *Whosoever shall put away his wife, and marry another*, it is to be understood that these acts were part of the same design : such a design is adulterous. Such are the arguments for the less strict

interpretation of this passage. But even with this interpretation, the leading point of Christ's teaching is plain ; that the Christian was not to be content with such an imperfect view of the marriage union as was placed before the Jew, but was to aim at that higher view which was shown, when in the beginning God made them male and female.

1036. It may be said, the view we have been taking, that marriage is an entire and interminable union of the pair, would lead us to reject all second marriages ; and that the law, in order to express the highest Conception of Marriage, ought to prohibit these. And undoubtedly, a very high view of the sacredness and entireness of the marriage union may easily lead to a disapprobation of second marriages ; and among Christians, in every age, there have been those who have condemned them. But yet, when the life of one of the parties is prolonged beyond that of the other, and when after the sorrow of the separation has subsided into calm, the survivor sees before him or her, perhaps at an early age, and after a brief married life, an indefinite remainder of life ; the same causes which impel persons to marriage at first, must often operate again with equal power, and supply the same reasons why there should be marriage. And the law, in sanctioning such marriages, divests the union of none of its entireness and permanence ; for the engagement is still for life on both sides. When the act of God has dissolved the first engagement, the law does not make that which is past and gone, a fetter upon the present and future ; but allows a new origin of conjugal life, making what remains of the person's life, as if it were the whole ; which, as to all engagements, it is.

1037. Most States have, in some way or other, punished Adultery, at least on the part of the wife. Yet the Law of England, placing Rights as much

as possible on the basis of property, gives the injured husband pecuniary damages from the adulterer; and leaves the public crime to the cognizance of the spiritual courts.

1038. There is another subject, on which it is necessary to say a few words; namely, the degrees of relationship within which Marriage is to be permitted by Law. In framing a system of Morality, the Moralist is often compelled to dwell upon subjects from which, on other accounts, he would wish always to turn the thoughts of men away: Incest is one of these subjects. But it will suffice us to treat it in a very brief and general manner.

1039. Without attempting to exhibit, in a more definite shape, the reasons and feelings which have made men look with horror upon any connexion of a conjugal nature, between the nearest family relatives; it may suffice to say, that all such relations make the man the natural Guardian of the woman's purity. This feeling of Guardianship on this subject, commonly infused into the affections, from their earliest origin, extinguishes the very seeds of desire, and leaves only *Fraternel Love*. On the other hand, when no such relation exists, desiring love may grow up; and in societies where men are free to choose their partners, there is a constant and universal feeling of courtship between the sexes, which tinges their manners towards each other. This feeling of courtship, in however many folds it may involve the spark of desire, is yet inconsistent with the chaste guardianship of *Fraternel Love*. Hence, the necessity of separating the cases in which persons may not marry, because they are relatives, from those in which they may marry.

1040. Where the separation line is to be drawn, in any given state of Society, is a question difficult of solution, and necessarily in some degree arbitrary. The Rule may be different in different

states of Society ; for it must depend, in a great measure, upon the Structure of Families, and the kind of the early intercourse of their members with each other, and with other Families. Hence, although the primary family relations must always have the same consequences, more remote relationships may be subjected to different Rules of intermarriage in different countries ; and one Country or Age is no absolute Rule for another : except only, that the long-continued past existence of a Rule, on this subject, is a very strong reason for retaining and observing the Rule ; since the separation of the two classes of cases, so necessary to the purity of families, produces its effect by being familiar to men's minds.

1041. Some persons have sought a ground for the prohibition of marriages between near relatives in physiological reasons, and in the supposed degeneracy of the offspring when such a practice is continued. But if this result were far more certain than it is, we could not consistently make it a ground of legislation, except we were also prepared to prohibit unions which are far more certainly the cause of physiological evil ; as for instance, when there is a great disparity of years ; or hereditary disease, or insanity, on either side.

1042. A question of prohibited degrees of kindred, which has been much discussed, is this : Whether a man may marry his deceased wife's sister. On this we may observe, that though much argument on the subject has been drawn from the law of Moses, such argument is of no direct force ; since, as we have said, one Nation is no Rule for another ; and the habits of society, and the relations of families, on which the Rule ought to depend, were very different among the ancient Jews, and in our own country at present. So far as the Jewish law has been the basis of the Rule hitherto received, it has weight ; since, as we have also said, an ex-



iating Rule is entitled to great respect. As to the grounds of decision belonging to our own state of Society, we have mainly to consider, whether, by marrying one sister, men in general are placed upon the footing of Fraternal Love with the other sisters; and whether it is requisite to the purity of this Fraternal Love (on both sides) that there should be no possibility of its being succeeded by the love which courtship implies. On these two questions, different opinions will be entertained by different persons. To the first, the manners generally prevalent in this country seem to direct us to return an affirmative answer. Whether Fraternal, may, in the course of a life, alternate with Conjugal, Love, it is more difficult to say. In one order, at least, this appears not to be unusual; since it often happens that a person courts first one sister and then another: but this is before the conjugal relation is established: and perhaps tends rather to show that the fraternal condition ought to supersede all other affections.

1043. On both sides of this question, arguments may be drawn from the probable consequences. On the one hand, if the brother-in-law is never allowed to become the husband, the sister of the deceased wife may, without incurring reproach, live with him as a brother, and may thus give to the children a mother's care. On the other hand, if the brother-in-law may become the husband, both he and the children may often find, in such a union, a valuable consolation and resource, after the loss of the mother. But the purity which is the object of such Rules, is in danger of some tarnish from the contemplation of consequences; and we shall not attempt to decide the question.

## CHAPTER XIV.

## DUTIES OF THE STATE—ORDER.

*Of Punishments.*

1044. ALL Legislation in a State may be considered as resulting from the Duty of Order ; for all Laws are means of Order. We have considered Laws, according to their purpose, as directed by Humanity, Justice, and the like ; and we shall not attempt here to make a separate class of those which have Order more especially for their object. But we may consider, as particularly resulting from the Duty of Order, the Office of the State in giving reality to the Laws by Sanctions, that is, by Punishments (501). If transgressions of the Laws are not punished, the Laws are merely nominal ; and, if such a course be continued, will soon be as if they did not exist. There must, then, be Punishments provided, to meet transgressions of the Laws ; and we have to consider by what Principles this part of the business of the State is to be regulated.

1045. An object of Punishment is to prevent the classes of acts to which it is affixed ; but this does not fully express the object ; the object is to prevent such acts, as being *wrong* (558). And the Laws which affix Punishments to Crimes, prevent them (so far as they do prevent them) by making men look upon them as wrong ; or at least by making each man regard them as something which the community deems wrong, and will punish because it so deems. And thus, Punishments, while they have it for their object to prevent certain kinds of acts, aim to obtain this object by making men look upon these acts as wrong. The Object of Punishment, even when it threatens most roughly, is not

merely to deter men, but to teach them ; not merely to tell them that transgression of the Law is dangerous, but also that it is immoral. Punishment is, as we have already said (502), a means of the Moral Education of the Citizens. We will trace some of the applications of this view.

1046. In Laws respecting Wrongs, we see very evident traces of the moral teaching which the Lawgiver, consciously or unconsciously, has had in view. Thus, with regard to Wrongs against the Person, one of the most ancient and general Rules is the *lex talionis*, retaliation ; a degree of suffering and harm inflicted upon the wrong-doer, equal to that which he had himself occasioned. Such was the Mosaic Rule (Exod. xxi.), *Strife for strife, wound for wound, burning for burning, foot for foot, hand for hand, tooth for tooth, eye for eye, life for life* : and still earlier (Gen. ix., 6), *Whoso sheddeth man's blood, by man shall his blood be shed*. Such an Ordinance, by making man feel that which he inflicts, plainly tends to teach him that all men are bound together as partakers of a common nature, and are required to act with a recollection of this community. Such is the mode in which children are still often taught, so as to have unfolded in them the feeling of humanity, both towards other children, and towards animals. And thus, in the earliest measure of punishment, we see a disposition to proportion it to the degree of guilt, as measured by the violence done to the common nature of all men.

1047. But it may be said, that the maxims of punishment admitted in later times deviate from this view, and are regulated by the principle that the object of punishment is simply the prevention of crime, and not the moral education of the people. And as examples of such maxims, may be adduced such as these : that Crimes are to be punished with greater severity in proportion to the difficulty and

necessity of preventing them ; or the facility of perpetrating them ; or their being committed by combinations of men. These circumstances, it is said, do not increase the guilt ; and yet, in the common judgment of Legislators, they have been made to increase the Punishment.

1048. But there is, in this judgment of Legislators, nothing at variance with the doctrine, that the purpose of Punishment is the Moral Education of the people ; and that it ought to be regulated by this purpose. For such circumstances as we have mentioned, if they do not increase the guilt of the transgression, at least augment the need which men have of the lesson which the Law gives, and interpose difficulties in the way of making the lesson impressive. If stealing privately in a shop, or stealing from a bleaching-ground, or any other offence, can be committed with special facility ; those who are placed in temptation require to be taught the criminal character of the act with special emphasis ; which the Law can do only by annexing to it a severer punishment. And on the other hand, if the crime, though one of great moral depravity, be one which is easily provided against, the Law may express its condemnation by a lighter penalty than would otherwise be necessary. Thus a Breach of Confidence, though it must be looked upon as more guilty than a Fraud where no trust has been reposed, is visited with a smaller punishment. And this is quite consistent with the character of the Law as a moral teacher. The forbearance of the Law in punishing Breach of Trust, is a significant lesson to the Trustor ; inculcating the circumspection, care, and precaution, with which he ought to select and control the depository of his confidence. And accordingly, when the trust is unavoidable, the punishment is not limited by this double bearing of the lesson ; as in the case of a theft committed by a servant in the shop or dwelling-house

of his master;\* for there it is in vain to preach to the Master a vigilance which could not be effectually exercised.

1049. In like manner with regard to crimes committed by Combinations of men, there are strong reasons why the Law should teach the criminality of such acts with a more emphatic voice, that is, by a heavier punishment. For this lesson has to contend against strong influences on the other side; the countenance and encouragement, perhaps it may be, the confidence and enthusiasm, which men engaged in a criminal act derive from their combination. A solitary criminal must feel as if he had all the world against him; but a band of conspirators are a public to one another; and the voice of this public, overbearing or misleading that of the conscience, requires to be itself overpowered by the voice of the Law, teaching with the authority of the whole community. Hence, conspiracies and combinations to do illegal acts, are very properly punished with greater severity than the like acts done by individuals.

1050. In order that the Moral Teaching of the Law may be effectual, it must be in a great measure in harmony with the general opinion of the members of the community. An attempt to throw the strong condemnation of the community upon an act by an extreme punishment, when the community do not sympathize with the severity, will make the criminals objects of pity, and alienate men's minds from the Law. But this is not to be understood, as if the Law could produce no effect, in exciting, or keeping up a greater horror of certain crimes, than would prevail if the law were relaxed. If the law be not very strongly at variance with the moral judgments of individuals, there are many citizens

\* Paley, vi, 9. *Crimes and Punishments*.

who, looking upon the law as being, in general, the support and expression of morality, will have their sentiments, with regard to special crimes, drawn towards an agreement with the law; and will look upon such crimes with especial abhorrence, so long as they are the objects of extreme punishment. In such cases, the relaxation of the punishment may diminish the prevalent abhorrence of the act. Thus, it is possible that the removal of the punishment of death from the crime of incendiarism may make the common people look upon such acts as less atrocious than heretofore. The recklessness and malignity of the crime made men continue to sympathize with the extreme of punishment in this case, so long as the law awarded it; but the mitigation of the punishment may possibly weaken the feeling.

1051. The law of retaliation, which we have mentioned as the oldest measure of punishment, is one to which men's feelings still very generally assent. That punishment of Death should be inflicted upon murderers, shocks few persons, compared with those who are shocked at the infliction of death in most other cases. Yet Capital Punishment has often been assigned to crimes of mere fraud, as forging bank-notes, coining money, and the like. It may be asked, whether this is consistent with the Principles we have laid down. Without pretending to justify any particular law, we may reply, that laws of this kind teach, and are intended to teach, a very important lesson; namely, the value and dignity of that established order and mutual confidence under which alone coined and paper currency can circulate. With the prevalence of such order and such mutual confidence, a nation may be populous, and its inhabitants may live in peace, ease, and comfort. Without such order and confidence, the land must be full of violence and mistrust; the inhabitants few, and comparatively wretched. He who destroys the order

and confidence of society, may be considered as destroying those lives, which, if such crimes as his had been common, could never have existed. The Law of ancient times treats the Coiner as guilty of treason against the Sovereign; but the Law, at any time, may treat the coiner and the forger of money as a traitor against the Sovereign Rule of Mutual Confidence, which is, to a prosperous and wealthy Nation, the breath of life.

1052. This Lesson, however, applies only to the State currency; which necessarily circulates rapidly, and is taken and given with slight examination. Private bills are to be protected on other principles. And even with regard to State currency, if it can by any means be made impossible, or difficult, to forge or coin imitations of it; it is the business of the State to employ such means, rather than, by means of extreme punishments, to claim, for the existing form of the currency, an importance which does not really belong to it.

1053. We may observe, further, that as the consideration of the high value and dignity of the established order of society, and of the security, confidence, and tranquillity which result from it, will justify the Law in asserting the claims of such order in the strong language of capital punishments, if it cannot be made intelligible in any other; so this part of the Law, no less than any other, requires the assent of a good citizen; and, in his proper place, has a moral claim to his co-operation.

1054. It may be that sometimes the long duration of an orderly and tranquil state of society, and the comparatively rare occurrence of capital punishments, may lead men to forget that a disorderly and violent state of society is possible, and that the danger of it is kept off, only by the existence, that is, by the enforcement, of laws. This forgetfulness, and the repugnance of the thought of the death and pain

of any one, which a life spent in tranquil society commonly produces, may lead men to think with dislike of the punishment of death, and of other severe bodily punishments. But if this dislike operate so as to make citizens neglect, or violate, their duty of co-operating to enforce the Law, the result will be the growth of crime, and the recurrence of a disordered and violent condition of society. Judge, Jury, Prosecutor, Witnesses, are alike bound by this Duty; and alike chargeable with the consequences of its neglect.

1055. The degree of co-operation which the State has required of its citizens in the enforcement of criminal Law, has been different in different times. Among the ancient Jews, capital punishment, death by stoning, was inflicted by the hands of the assembled people themselves. In modern Europe, and in the world in general, the infliction of death, or mutilation for great crimes, has usually taken place in public; and has been regarded with sympathy, or at least with acquiescing awe, as a natural act of justice, necessary to the safety of good citizens. The freedom and diversity of opinions which have prevailed on political matters in England, have rendered men less generally ready to sympathize with acts of the State against individuals; and thus, the sympathy for necessary justice has been dull, while a sympathy for the individual is lively. But this disproportionate progress of sympathy, for the good and the bad members of society, is a defect in our national moral culture. The humanity is of a partial and perverted kind, which is attracted most by the necessary consequence of criminality.

1056. The prevalent detestation of criminals has been, in most states, one of the holding points of the general avoidance of crime; and consequently, one of the means of a general moral culture. Some



punishments so far take this prevalent feeling for granted, as to make it the instrument of punishment ; as when the criminal is declared infamous ; or when he is put in the *Wallory*, which is infamy added to bodily pain. These punishments are, undoubtedly, very unequal in the weight with which they fall upon different persons, according to the public opinion respecting them ; and this is a defect in such punishments. But it does not appear that orderly society can subsist without assuming, in a great measure, that agreement between public opinion and judicial proceedings which such punishments assume. If acts, which are great crimes by the law, cease to be infamous, or to shock men's minds, the law ought to be altered : if for no other reason, yet for this ; that the evils attending the frequency of such acts, being really felt, may excite general anger against such crimes and such criminals, and thus bring men's feelings into harmony with the law which condemns them. If the law, as a means of moral discipline, lose its hold upon men, from being too rigorous, it may regain its hold by being relaxed : but it is to be recollected that the hold thus gained consists in the suffering, alarm, and indignation which crime produces.

1057. Many attempts have been made to render punishment a moral Discipline, not only for society in general, but also for the criminal himself ; to reform him, while we punish. And so far as this is compatible with the reality of punishment, it is a Duty to aim at such an object : not only as a matter of humanity towards the individual, but also as a step in the moral improvement of the community : for the persons who are punished by imprisonment, or otherwise, are, after a longer or shorter time, liberated ; and these form a part, and in populous States, not a small or unimportant part, of those whose collective moral character is the moral character of the com-

munity. How the reformation of criminals is to be aimed at, whether by solitary confinement, by making the prisoner's subsistence or comfort depend upon his industry, or in what other way, is a question, rather of Prison Discipline than of morality.

1058. The punishments besides death and bodily suffering, as Fine, Imprisonment, Exile, Deportation to a convict colony, and the like, differ much in the severity with which they fall upon different persons, according to their previous circumstances, and the circumstances of the community. Through the feeling of the repugnance which the infliction of death excites in bystanders, many persons have been led to think that capital punishments ought to be abolished altogether. If other punishments could come to assume such a character as to give to men's Rights their reality, capital punishments might cease. But such an increase in the efficacy of lower punishments, such as exile, imprisonment, and the like, must depend, in a great measure, upon the value of those benefits of social life from which the exile and the prisoner are excluded. If the general lot of man in society could be made so delightful, that it would be comparative misery to lose it, Banishment or Imprisonment for offenders might suffice to keep up such a condition. But then, it is to be recollected, that one requisite for our advancing towards a state of society so generally satisfactory, is the establishment of Moral Rules as realities: and to this, at present, there appears to be no way, except by making Ignominious Death the climax of our scale of Punishments.

1059. We have said that there are two kinds of Laws, Laws against Wrongs and Laws against Vice. What we have hitherto said respecting Punishments, applies mainly to the former kind. The general Principle which we have laid down respecting Punishment in such cases, namely, that it is to

be regarded as an Instrument of Moral Education, is still more evident with regard to Punishments appointed for acts, which, though vicious, violate no man's Right. Such are Laws against cruelty to animals; as we have said (1026); Laws against Indecency and Profligacy; against Profaneness and Blasphemy; and the like. Punishments assigned to such Offences, evidently have it for their purpose to mark the judgment of the State as to what is right, and what is wrong; and to call upon the citizens to agree in this judgment. Such Laws are intended, not to protect the Rights, but to mould the Manners of the citizens; not so much to prevent the acts which they forbid, as to foster in the community a disposition the opposite of that which such acts betray. The State forbids cruelty to animals, because it approves, and would cherish, the feeling of humanity. It puts down indecency and profligacy, as far as a regard for freedom will allow it to do so, because it respects, and would diffuse, chastity and purity. It condemns profaneness and blasphemy, because it reverences God, and would lead all its members to share in this reverence. Such Laws are manifestly Moral Lessons. The State, in promulgating such ordinances, plainly comes forward in the character of a Teacher of the Citizens.

1060. But yet, this office of teaching must needs be very imperfectly discharged, if the means which the State can employ for this purpose are only those which we have mentioned. Punishments, when viewed as Instruments of the Moral Education of the citizens, may have a significance which they cannot have under any other point of view; but still, they are Instruments which can carry the work but a little way. We must have something different from the Axe, the Scourge, the Chain, the Branding Iron, in order to raise the minds of men to any elevated standard of morals. The use that is made of them,

may show that Moral Education is a Duty which the State acknowledges, and must needs acknowledge ; but we must look in another quarter for the only effectual means by which this Duty can be performed.

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## CHAPTER XV.

### HOW CAN THE STATE EDUCATE THE PEOPLE ?

1061. As we have seen, the State is necessarily driven to aim at the Moral Education of its members, and yet has no prospect of effectually promoting this object by its ordinary means of action, Law and Punishment. For Law (400) deals with external acts ; Morality, and therefore Moral Education, with internal motives and intentions ; and how is the State to penetrate to and to mould these ? Education unfolds the Faculties and imparts Belief (561). How can the State impart Belief ? The foundation of Morality is a Knowledge of Truth, and especially of Religious Truth (565). How can the State give such a Knowledge ? Religious Truth is kept present to men's minds, and effective in their lives, by means of Religious Sympathies and Religious Ordinances. How can the State reach such Sympathies or direct such Ordinances ?

1062. It is plain that the State cannot do these things of itself ; and cannot do them at all, except it can for that purpose obtain the aid of the Religious Teachers of its people. If it can induce *them* to act in conjunction with it, the State may, by means of Religious Education, impart a Moral Education. Using the term *Church* in a general sense, as implying the Teaching Body in every Religion, the State

can educate the people by the aid of the Church, and in no other way.

1003. But if the Religion be the Christian Religion, it would seem that there are especial facilities in the State obtaining this assistance. For the Christian Teacher, and every Christian, so far as his power of Religious teaching goes, is bound, and is desirous to communicate his religious knowledge, hopes, and aids, to those around him (730). He is zealous in imparting to all within his sphere of influence a Christian Education, which is necessarily also a Moral Education. Hence the State will be especially enabled to promote its object, the Moral Education of the people, if it can employ for that purpose the assistance of the Christian Church.

1004. Being thus led to look at the relation between the State and the Church, a number of questions rise up before us, which we must consider; especially the question of the Terms on which the Church can give, and the State receive, this assistance. But before we proceed to such questions, we may illustrate somewhat further the assertions already made: that the Moral Education of the People is necessarily an object of the State's activity; and that the State of itself can not effectively in promoting this object.

1005. Even with regard to its lower object, Self-preservation, the State cannot avoid aiming at the moral and religious education of the people. The infliction of punishment requires in some cases the co-operation, in all the acquiescence, of the people; and cannot be effective except when it is supported by some popular sympathy (1054). Hence the State, in order to give force to its punishments, must desire a corresponding moral education of the minds of its subjects. Again, the State must necessarily have a Right (841) of requiring from its citizens Oaths of Testimony, Oaths of Office, and the

like, as means of securing a coincidence between men's Obligations and their Duties, without which Government would not be possible. But oaths cannot produce their effect, if men's minds be not religiously educated; the State therefore must desire the religious education of its citizens. Again: the State, in prohibiting offences against Person and Property, aims at producing not only quiet, but security. It seeks not only to prevent battery and robbery, which may, in particular cases, be effected by mere force; but also, to make men feel secure that they shall not be beaten or robbed; which can only be done by making the citizens in general peaceable and honest, instead of being pugnacious and rapacious. Even in this part of its office, therefore, the State aims at a moral Education of its citizens. And thus, even while it looks to its lower objects, the mere existence of Law, Judicial Process, and Individual Security, the State cannot avoid aiming at or requiring a moral and religious education of its subjects.

1066. But the State has higher Duties than the mere protection of Person and Property, as we have already seen (992). The existence of Laws concerning Marriage necessarily supposes that the State not only desires the continuance and comfort of its population, but aims also at the encouragement of chastity and virtue (1027). Such Laws are Lessons, as well as Laws. And with regard to the higher objects of men's actions, their moral and intellectual culture; including, in this, their religious culture also; many modes of conducting this culture and gratifying the moral, intellectual, and religious sympathies, are such as naturally draw men into Associations, which exercise a great sway over their actions. In some respects, the convictions and feelings which bind together such Associations may be said to exercise the *supreme* sway over men's actions: for so far as men do act, their actions are,

In the long run, determined by their conviction of what is right on moral and religious grounds; and a Government which is wrong on such grounds, will be destroyed, if the subjects are free to act. And though men may, for a long time, be subjugated by a Government which they think contrary to morality and religion, this condition of things cannot be looked upon as one in which the State attains its objects. The State, the Supreme Authority, must have, on its side, the convictions and feelings which exert the Supreme sway. It must therefore have, on its side, the convictions and feelings which bind men into associations for moral, intellectual, and religious purposes. If this be not so, the State has objects in which it fails, and which are higher than those in which it succeeds; and a portion of its Sovereignty passes, from it, into the hands of those who wield the authority of Moral, Intellectual, and Religious Associations. It must, then, be an object of the State, so to direct the education of its subjects, that men's moral, intellectual, and religious convictions may be on its side; and that Moral, Intellectual, and Religious Associations may be duly subordinate to its Sovereignty. Besides which, the Government, if it be conducted by intelligent, moral, and religious men, will itself desire the intellectual, moral, and religious progress of the nation; and will wish to educate the people in such a manner that this progress may constantly go on.

1067. Thus the State, both by its lower and by its higher objects, is necessarily led to aim at educating, or directing the education of, its people. But it may be asked, whether the State is not competent to discharge this office for itself. For, it may be said, Education must be conducted by means of Masters which the State can appoint, of Lessons which it can prescribe, and of Rewards and Punishments which it can assign. And examples may be pointed out,

especially in the ancient world, where the State, as the State, has educated its people, and educated them in a most effective and marked manner; modifying their characters and moulding their wills into a conformity with the general purposes and will of the State. Such was the case at Sparta, under the constitution Lycurgus. The individual citizens, in virtue of the Education which they received from the State, were in the habit of controlling all the natural impulses of men, in obedience to the Laws; and were even ready to lay down their lives when the State directed them to do so. Here, then, it appears plain that the State does not need a Church, to enable it to educate its citizens; and has, in fact, powers of education as efficacious as any Religious Teachers ever had.

1068. To this we reply, that in this, and in all cases in which the State has been an effective Educator, it has united the Influence of Religion with the influence of Reward and Punishment. The Legislator has either himself been also a Religious Teacher; or he has taken to his assistance Religious Teachers, and has joined their authority with his own. There has been, in such instances, an identification or fusion of Law with Religion; of the State with the Church. The Precepts of Religion have been enforced by State Punishments; the Laws have been supported by Religious Sanctions. But this condition of things belongs to a very early stage of Society. The State, and the Religious Body, have now long been separated, and exist in distinct forms, with different powers in various hands. We can no longer, even if it were desirable, expect to see an identification of Church and State of this kind. The two seats of power are now distinct; and we must consider, not how they may again become one, but in what manner, and under what conditions, they can best combine their influence.



1069. Moreover, even if we could wield the united powers of the State and of Religion, in moulding men's minds to such a frame as we have described, this would not satisfy us; for this would not be the Education which we contemplate. Such a Discipline does indeed answer the direct purposes of the State, but it does not answer the purposes of Morality or Religion. It may make the citizen an effective instrument for the purposes of the State, but it does not make him fully a man. In order that a man's being may have fully a moral character, he must not be merely shaped by laws from without, but also by a principle of spontaneity within. He must not merely accept the national morality, but must elevate his own standard above what he begins with. He must not merely repeat the National Creed, but he must accept as Truth what he sees as Truth (563). The State may prescribe its lessons, but they are no lessons for him, except they become a part of his conviction. He is not educated by repeating words, or by forming outward habits. Education has to do with the development of the faculties, and the culture of mental powers; with Belief and Knowledge; with Speculative Truth and Falsehood; and with these, the State, as a State, can have nothing to do; for the State has no powers, no organs for judging of Truth or Falsehood, except the men of whom it consists; considered, not as political elements, but as moral, intellectual, and religious beings. The State, therefore, as the State, cannot educate the people; and can do this, only by calling in the Church to its assistance.

This being established, we have several questions brought before us: Whether the Church can accept this office from the State: If accepted on Terms, What terms the State, what terms the Church, can agree to; and the like. These questions we shall briefly examine.

## CHAPTER XVI.

## THE RELATIONS OF THE CHURCH TO THE STATE.

1070. MAN is a political animal. Wherever he exists, he lives under a Government, ruling by Laws, enforcing the Laws by Punishments; the Government being administered by Magistrates and Officers, subordinate to each other in various degrees. Man is also a religious creature. He everywhere believes in and looks to a Divine, as well as a human Government. He has religious hopes and fears which are the sanctions of his morality: he receives with reverence and submission the lessons of his religious Teacher; he seeks comfort, guidance, and encouragement in his earthly career from religious sympathies and ordinances; he has, here on earth, a religious Government conducted by Laws and Punishments, Rulers and Ministers, appointed according to the directions of his Religious Teachers. He is a member of a Religious Community, as well as of a Civil Community.

1071. Since man is everywhere a member of these two Communities, it becomes necessary for us to consider in what relation they stand to each other. Using the term *Church* in a large sense, so as to include all religious Communities, whatever their belief, we may term this the *Relation of Church and State*. But the term *Church* especially denotes the *Christian* Community; and when applied to other Religions, might seem to imply a closer analogy to the Christian Church than we can always find, or need assume. The *Relation of the Civil and the Religious Community* is a point which concerns all Communities. It is a universal question of Polity, and must at first be treated of with reference to all cases; though the Relation of the State to the Chris-

tian Church is a point of more especial interest and importance to us. We shall consider the various modes in which the State may deal with the Religious Community.

1072. *First*, the State may treat the Religious Community with *Indifference*. This supposes that the State does not think it necessary to treat the Religious Community with hostility. It supposes, therefore, that the Religious Teacher does not inculcate disobedience to the Civil Laws ; for if he do, the State must silence him, in virtue of its Obligation to repress Sedition (857). When this is not the case, the State may abstain altogether from recognizing the Religious Community. It may act as if ignorant of the existence of the Religion and the Body ; just as it may abstain from recognizing an association for the cultivation of Science or Art.

1073. When there is but one Religious Community within the boundaries of the State, there can be little temptation for the State to take this course : for the State has, as we have seen, very strong reasons for desiring to have the influence of Religion on its side, and in its service ; and in such a case, the State will generally form, with the Religious Community, an Alliance with one or other of the kinds which we shall have to mention. But there may be great obstacles or impossibilities in the way of the State doing this. There may be several Religious Communities within the State ; and it may not be possible to form an Alliance with all. The Governors of the State may have conquered the Nation without having adopted its Religion, and without being willing to adopt it, to the extent which an Alliance implies. Or in consequence of a series of historical events, several Religions, each embodied in a Religious Community, may exist in the country. Or there may be several Religions, not in consequence of external events, but of the internal working of

men's minds. A part of the people may have made such a movement in religious thought, that they have cast off the old Religion, and established a new Belief, with a corresponding Religious Body. Or finally, there may be more than one Religion in the country, by the more express working of Providence ; as when it introduces the true Religion into a land previously occupied by a false one ; and the true Religion may not yet have reached the minds of the Governors. In all such Cases, the State may be prevented from making an Alliance with any Religious Community. It may, if the Governors be not incited to persecution by Religious feelings or political fears, treat all religion with neutrality. The State and the Church may be altogether unconnected. Men may be allowed to preach and to teach, to worship and to pray, as they are allowed to do any other indifferent acts. They may be allowed to assemble for such purposes, provided they do not create disturbance or inconvenience by their assemblies or practices. They may have Temples, by the same Right by which they have houses ; they may celebrate religious Festivals, as a Family may celebrate its Birth-days. They may perform their religious Observances on occasions of Birth and Marriage, and Death, in addition to the Forms which the State requires. They may settle their disputes by the Arbitration of their own Officers, in all cases where the State does not find it necessary to compel them to its own Tribunals.

1074. Such a condition of things may last for a considerable time : but from what has already been said, we see how incomplete a State is, which is on these terms with the Religious Communities existing within it. In such a case, there is a provision for the *lower* object of the State, its preservation, in the absence of all religious teaching of disobedience to the Laws. The State is left to protect itself by its

Punishments. But in doing this, it works upon men's outward fears alone. The people have no sympathy with it. If the Government is attacked, the people are obedient, so long as it can defend itself; but they are neutral. There is no zeal, no affection, on its side. All men's warmer and stronger feelings,—their loves, their hopes, their reverence,—are directed to their Religious Community. It is to that, that their higher nature, their moral being, clings. If the Government perish, they care not; for some other Government will succeed, which, so long as they obey it, will hardly fail to be at least indifferent to them, as the existing one is. But this is not all the danger. The Government may think it good policy to treat Religious Communities with Indifference: but the Religious Communities, or some of them, may not think this good policy. They may think that Religion *ought* to be considered in the conduct of a State; and that true Religion ought not to be put on the same footing as false. They may think that a State ought to aim at those higher objects, which it can promote only by the aid of Religion; at a morality, beyond mere legality; at a moral, intellectual, and religious progress. They may look eagerly, though tranquilly, for the opportunity of carrying these views into effect. Or again: the existing state of religious division, and the Polity of Indifference, may have been preceded by a state of things in which such religious views were carried into effect; by a Polity in which the State was allied with their Religious Body. In this case, the supporters of religious Polity look upon the Polity of Indifference, not only as a National Calamity, but as a heinous Wrong to themselves. They regard the Government as an irreligious usurpation. They look to some extruded Dynasty, some superseded Constitution, as the Instrument by which their Rights are to be restored, and the National sin and misery

wiped out. Their hearts are always ready to take up again the good old Cause of Church and State. The Government has a most dangerous foe within the bosom of the nation ;—a body of the people united by conscious sympathy and familiar organization ; ready to act against the Government with a courage, enthusiasm, and devotion, such as a Religious Cause can inspire, and to which a Government, whose Policy is Indifference to all enthusiasm, can oppose no corresponding feeling. This is a serious danger ; and one which, in the course of a prolonged national history, can hardly fail to show itself in great national misfortunes. And still further : there is, as we have seen, a just ground for discontents of this kind. A State which thus treats Religion with indifference, is really prevented from promoting all the *higher* objects of the existence of a State. It has no means of educating the people, or of promoting the moral, intellectual, and religious progress of the nation. It cannot promote the moral progress, because, in Education at least, morality can only be taught by inculcating its religious foundation. Nor can the State, in the case supposed, promote the intellectual progress of the nation. For man's Duties and his Destiny, the Ends of Government, the Precepts of Religion, have so much more interest for the Intellects of men in general, than any other subjects ; that any intellectual teaching which excludes these subjects, would, on that account, fetter and narrow the mind, far more than enlarge and elevate it. Moreover, the intellect could not be much exercised on mere material subjects, to the exclusion of moral and religious ones, without giving both an undue estimate of the comparative value of the former, and a false view of their bearing and connexion.

Since then the Polity of Indifference towards Religion is accompanied with such serious evils, let us consider other modes of dealing with that subject.

1075. The *Second* Form of Polity which we shall consider is, when the State takes the Religious Community under its *Protection*, securing to it certain Rights, and receiving from it, in return, certain services. In this form I do not include those cases in which Religion is *established* by the State, as being *true* ; but only those in which it is *protected* as being *useful*. Such is the condition of the Religion of the natives in India under the English sway. Such is the condition of all forms of Religion, in the United States : all are protected ; none is established. Such also is the condition of Religion in all those nations of Europe in which there is no State Religion ; although these nations may differ much from each other, in the amount of Protection which they may afford to Religious Communities, and also in the degree in which the Governors of the nation show, to one Religion or another, in their personal acts, a favour which the Constitution excludes in their political acts. Accordingly, the Rights, Privileges, Encouragement, and Influence of Religion, are very different in the different nations which live under this Polity.

1076. In all such States, the Religious Communities which are thus protected have the Right of holding the property, which is bestowed upon them by their members ; in some, the Ministers or Clergy of all or some selected Religions, receive pecuniary support from the State itself. In return, they are expected to inculcate the Duty of Obedience to the Civil Authority, which indeed is almost a necessary condition of the Religion being permitted to exist : and they are also expected to teach their members the religious Duty of a scrupulous conformity to Truth in declarations, confirmed by Oath, or by some equivalent solemnity. Sometimes the members of the religious community have additional privileges and offices ; as when their religious forms of marriage are accepted as constituting a legal marriage ;

and when their Ministers have a definite part assigned them by the State, in the education of the people. In this case, there is expected, from the ministers of Religion, a large but indefinite Operation in promoting that object which the State, thus protecting one or more Religious Communities, may be supposed to have in view ; namely, the general Moral, Intellectual, and Religious Progress of the Nation ; for the Statesman probably conceives that this Progress may be understood in so comprehensive a sense, that the Progress made by means of any one Religion, may be conceived as a part of it ; and such a Progress he expects to result, not merely from the education of the young, but from the attention bestowed, at all times of life, upon a subject, so wide, pure, and lofty, as Religion ; and from the existence of a Body of Clergy, who must be persons of a Moral and intellectual culture, superior to the common herd of mankind. These views may induce the Statesman not only to protect, but to support the Clergy from the national fund ; and to support the Clergy of several different Religions, which prevail among the people ; although he himself is convinced that one of these Religions is true, and that all the others are false.

1077. But on the other hand, there are very serious inconveniences in the State thus confining itself to the Protection of Religion ; and still more, in its Protecting several different coexistent Religions. For the State cannot do this, without appearing to be indifferent to the Truth or Falsehood of Religion ; and this very Indifference implied, will neutralize the effect of the Protection bestowed, and will much diminish the Influence of Religion. For if any Religion be true, why should not the State adopt it, profess it, and act upon its Precepts ; since they will contain Rules of Action for States, as well as for Individuals ? And if several Religions be thus pro-



tected, the Indifference to Truth and Falsehood is more manifest ; and the Government is likely to incur the suspicion of deeming all Religions equally false ; and thus the State really teaches, as its especial Lesson, Disbelief in all Religion. It is true, that the Governors themselves may, by their manifest piety in their own personal Religion, diminish the evil of this lesson, and make it appear that the Neutrality of their Polity is a consequence of the Divisions of the nation, and not of their own want of religious earnestness. But then, so far as this effect is produced, there will be excited, in the other Sects, a suspicion of a latent hostility on the part of the Government, and a fear of having the State Protection withdrawn from them.

1078. There are also other evils, arising from the share which, under this Polity, the Clergy take in Civil business. If the Clergy are allowed to legalize the Marriages which they celebrate, they may, by imposing their own Rules, and their own conditions upon Marriage, exercise upon the citizens a constraint which the State strongly disapproves. The Clergy of one Sect may refuse to celebrate *Mixed Marriages*, that is, Marriages of their Members with those of other Sects ; and thus, the freedom of the Marriage choice may be much narrowed, and in special cases, great unhappiness produced. The Clergy may exercise great severity, at least great spiritual severity, in cases of *Conversion* of persons from one Sect to another ; may interfere in the management and disposal of children ; and the like. Thus, collision between the State and the Clergy may easily exist.

1079. Education is another matter of great difficulty, under the Polity now spoken of. For, as we have said, intellectual, moral, and religious education are so closely connected, that they cannot be kept permanently separate. If we take the *Higher*

*Degrees of Education*, we find it impossible to carry them on, without teaching either religion or irreligion. In the ancient world, Philosophy was, for the most part, the adversary of the received religious belief. In the Christian world the higher education is resolved into the three *Faculties*, Theology, Jurisprudence, and Medicine: of which, the first conducts our mental culture with reference to Religion; the second, with reference to the State and its business; the third, with reference to the Material World, and the properties of its component parts. For Medicine, in its original and comprehensive sense, as one of the great divisions of human culture, must be considered as taking in the whole of physical science. But a person cultivated to the highest degree in a knowledge of physical science, without any moral or religious education, would be rather a powerful intellectual machine, than an educated man. Again; the most exact knowledge of the positive Laws of States, if not combined with some cultured judgment of what laws ought to be, would not fit a man to be a statesman; still less would it do justice to his being, as a man. And when we come to consider what laws ought to be, we are led to contemplate the Ends of law, and of human being; which cannot be rightly done without the aid of Religion. Thus Education cannot go on, so as to answer its purpose, without including in it Religion as a leading element. Hence, the Universities, the seats of the Highest National Education, must combine Theology, or at least its regulating and elevating influences, with the rest of their studies. If, in the Universities, the "Faculties" are altogether disconnected; if the Highest Education consist merely of Jurisprudence and Physics, Theology being excluded; this Education cannot fail to have an atheistic tendency; which, in the course of time, will produce a decided effect upon practical morality.

1080. If on the other hand, the Education of each Sect is made more complete, by including in it the Theology of the Sect, or its elevating influence, then the Highest Education must be divided according to Sects, and each Sect must have its University, or at least, its Theological Professors in the national Universities. In such a state of things, we may suppose the influence of theological teaching to be so far combined with other teaching, as to remove all general tendency to atheism. But Statesmen, who must be formed by such an education as this, since it is the highest kind of Education, cannot derive from it an intellectual and moral progress, which they may manifest in their national acts ; except we suppose that Statesmen learn, from this co-existence of theologies, a more comprehensive religious philosophy, which includes the regulating and elevating tendencies common to all the sects ; and that they conduct the affairs of the State according to this philosophy. But to suppose this, is to suppose that Statesmen frame a Religion of their own, in which they reject the peculiar doctrines of each sect, as not essential to their purpose. And in this mode of proceeding, again, there appears to be a tendency to atheism. For if we reject all peculiar doctrines of Sects, there remains nothing which we believe ; since there is no doctrine which is not rejected by some Sect. Thus the Unitarian rejects the Divinity of Jesus Christ, the Jew rejects his Divine Mission ; the Sadducee rejects a future life. This tendency may operate slowly, especially if, at the outset of such a Polity, the various Sects have been led, by an experience of evils residing in other courses, to accept willingly a Polity which protects them all ; but yet it seems probable that the time will come, when either the superior value of one Religion will be acknowledged, and that form will be accepted as the national guide ; or those who are formed by the

Higher Education will be led, by its tendencies, to reject successive doctrines, till they are left without religious belief.

1081. But under this Polity, there are also great and especial difficulties in the *Education of the People* ; which must necessarily be one of the main objects of enlightened Governors. For if this Education be left to the voluntary exertions of the several Sects, there is no security, nor even probability, that it will extend to the whole population ; or that it will grow with the growth of the population. Those indeed who are themselves religious, will cause themselves and their children, and perhaps some of their neighbours, to be religiously taught ; but when people have become careless about religion, they are, under this Polity, in a condition without hope. Those who have a sense of religion, will perhaps maintain among them, by voluntary efforts, Religious Teachers of their own Sect. But those who have no Religion, have also, for the most part, no consciousness of their need of Religion ; and will not expend money and trouble, on a matter for which they have no care. Hence the *Voluntary System* of teaching religion, both with reference to adults and to children, is insufficient for the purposes of the State, which cannot be content to leave large bodies of its population altogether uneducated. And if the State stimulate and assist various Sects to carry on the Education of the People, beyond the bounds of the voluntary demand, there will be great difficulty in portioning out its assistance in a satisfactory manner. Even if any general maxim be adopted, as, that All Sects are equal in the eye of the State, the application of this maxim can hardly fail to produce frequent dissensions and complaints. And besides, this equal treatment, or simultaneous support, of several Religions, will, as we have said above, seem to imply an indifference to religious Truth and False-

hood, which will tend to diminish the popular respect, both for Religion, and for the State.

1082. If, in order to avoid these evils, the State leave the *religious* education of children to the voluntary efforts of Sects; but try to provide for all of them a *secular* education, so that they may not be entirely uneducated; we are again led to the difficulties of which we have spoken, as necessarily resulting when we attempt to separate intellectual, and moral, from religious education. These difficulties belong to popular, no less than to the higher education. There can be no Education of the People, which excludes Religion, and the traditionary influence of Religion upon other studies. If reading and writing, and history, and natural history, and languages, and poetry, are commonly considered as important parts of education; they are so considered, only because these studies have hitherto been pursued in a moral and religious spirit; so that everything which the pursuit of them brought in the learner's way, co-operated with the influence of religion. If this were to cease to be the case; if the attempt were made, to exclude implied morality and religion from such studies; either the studies would become unfit for moral creatures; or moral and religious implications would still be sound latently retained, and would be matter of controversy to rival Sects. And at the same time, the National Education, thus given, would be very ineffective, compared with the Voluntary Sectarian Education; and therefore would not tend to that National Spirit of Union, which must be one of the enlightened statesman's objects.

1083. If the Government, thus aiming at establishing a Secular Education, place, at the head of this Education, a Minister of State, or a Council of State, or a Secular University; it will be difficult to avoid Collisions between this *Ministry of Education*,

and the Ministry of the Church. For the Ministers of the Church cannot ever cease to look upon the Education of their flocks, both children and adults, as a matter which is of the highest importance to them, and in which they ought to be concerned. Religion, at least, they *must* teach to young and old ; and with the teaching of Religion, how easily is all other teaching combined ! If the Ministers of Religion are required to abstain from teaching the young altogether, they purchase the Protection which they receive, at too dear a rate. They are placed in a condition of intolerable hardship, and dire fear for the future. For how can the rising generation fail to grow up irreligious, if they do not receive religious instruction ? It is not probable that the Ministers of Religion will accept pecuniary maintenance or nominal protection from the State, on condition of their being excluded from all share in the education of the young. If the Government were to make an attempt to force such conditions upon the Ministers of any Religion, the attempt must be looked upon as changing the Protection into Persecution. Such a course of Policy could be justified only by its being known that the Ministers of Religion, thus dealt with, were in the practice of teaching disobedience to the Laws, or of upholding the Authority of a Rival Government.

1084. Thus the Polity of mere Protection, as the Relation of the State to the Church, implies Indifference to Religious Truth, leads to Collisions between the State and the Clergy, is inconsistent with the Higher Education of Universities, and the general Education of the People ; and if such Education be attempted, leads to Collisions between the Ministry of Public Education and the Clergy.

1085. The *third* form of Polity which we have to consider, is that in which the State recognizes an *Established Church* ; that is, a Church accepted as

the Teacher of the True Religion ; and therefore admitted to a Share in the administration of the country ; as took place when Constantine established the Christian Church in the Roman Empire. When the Religion of the Church is thus accepted as true, since Religion is the best of guides for human conduct, and religious influences the deepest and most powerful grounds of human action, it is very natural that the Governors should not only take the Church for their Ally, but acknowledge it as their Supreme Ruler ; and in this case we have, not merely an Established Church, but an Ecclesiastical Supremacy ; not merely Temporal Power given to the Church, but Spiritual Domination introduced into the State. But this latter kind of Polity must be considered afterwards ; and, without going to this length, the State may acknowledge the Church as the Teacher of Religious Truth ; and may, on that account, assign to it many Offices, which no Agent but such a Teacher can discharge, and much Authority, which such Offices necessarily imply.

1086. The first, and perhaps the greatest advantage, which naturally results from the acknowledgment of the Church, as the Teacher of Religious Truth, is, that, this being done, the State can thenceforth give a religious character to all its solemn Acts. The Officers of the State, from the highest downwards, can, as its Representatives, assign religious, as well as political reasons, as the grounds of their actions. They can speak with reverence and earnestness of the views involved in such reasons : they can, in their official capacity, join in religious worship ; and can combine expressions of religious seriousness, and of the hope of the Divine blessing, with the great occasions of State ; such as the accession of the highest magistrates to their office, the business of legislation, the administration of the law ; and with all their efforts towards

the intellectual, moral, and religious progress of the nation. The State is *then* a religious State. It may hope to receive, in its acts, that respect which men cannot give to anything short of religious action. It may hope for that affection, and sympathy, and devotion to its ends, which men do not bestow on any Agent, which they regard as devoid of religious principles. The members of the Established Church look upon the State no longer with indifference, as an Institution to which they owe nothing ; or with a limited gratitude, as a return for a limited Protection ; they identify it with themselves. It acts for them, not only as being lovers of justice, or of humanity, but as being lovers of Religion, and of that deeper and purer and loftier morality, to which Religion alone can effectually direct us. They look upon the State, not only as an Ordinance of man, to which Religion enjoins them to submit themselves, but as an Appointment of Providence, for the support of the Truth, and the improvement of mankind.

1087. The highest objects of the Church and of the State being thus identified, it becomes possible to make many arrangements in the political structure of the nation, which may be at the same time subservient to these higher objects, and beneficial instruments for the lower ones. The Church must desire to have Religious Teachers, Places of Worship, Schools, diffused over the land ; so that all persons may receive the benefits of these means of religious education and direction. For this purpose, no better way can be devised than that the land shall be divided into small districts, and one or more religious Teachers placed in each ; that there shall be *Parishes*, and *Parish Congregations*, and *Parish Ministers*. But these Parishes may also form a highly beneficial organization of the State. For all the great events of life, Birth, and Marriage, and Death, of which the State must take note, are, by the



Church, invested with religious Ordinances. And as the Association of the members of a Parish serves for religious teaching, and for the united action of the Congregation when that is necessary; it may serve also for the promulgation of laws and acts of the State, and for the proceedings of local bodies of the citizens, when the Constitution requires such proceedings. And though, for some purposes, there may be little apparent advantage in the coincidence of the political with the ecclesiastical subdivisions; for some purposes the benefit of such coincidence is manifest: as for instance, for the relief of the poor. For it may be supposed that in the case of a duty so strongly enjoined by religion, as well as required by humane State policy, associations of men will act with more mutual understanding, sympathy, and charity, if they are the same associations who meet to hear their religious duties inculcated, and to join in acts of worship which remind them that rich and poor are brothers. And in all the acts of the members of a Parish as such, since the guidance and example of their religious teacher may be supposed to have some influence over them, we may expect more kindness, moderation, and thoughtfulness, than if they were not thus connected; since the Minister, educated for his Office, and entrusted with weighty responsibilities both by the Church and the State, is less likely than other men to act with harshness, passion, or levity.

1088. But the Parish Ministers will, by the organization of the Church, be placed under spiritual Governors and Directors. In all ages of the Christian Church, they have been under *Bishops*. And this Institution affords to the State additional advantages, if the Bishops, or Ecclesiastical Rulers, are earnest in furthering the purposes of the State; for these Bishops or Rulers may control and direct the inferior clergy, so as to promote beneficial civil, as

well as religious, objects. But in order that the Bishops may thus participate zealously in the purposes of the State, they must be connected with the State, and associated in the Government. They must, for instance, possess places in the Executive or the Legislative Councils; they must have the aid of the civil power, in enforcing the sentences which they, or others acting for them, pronounce as Ecclesiastical Judges; they must have a maintenance and rank, suitable to the place thus assigned them in the business of the State. The Parochial Clergy, too, must have, not only a maintenance, which may enable them to give their time and thoughts to their religious duties (including the cost of a corresponding education); but must also have such other kinds of right and authority, in their Parish, as the good order of the Parish requires; for instance, rights relative to the Edifice of the Church, the Burial-ground, and the like.

1089. The Established Churches in the nations of Europe have possessed such Rights as we here speak of; not as Rights granted at any special time by the State; but as Rights which have grown up in the course of historical changes; just as the Rights of the other classes of Society, which belong to the Constitution of each country, have grown up. At an early period, the Clergy possessed much land, given to them by pious donors; and the *Tithe*, or tenth part of the annual produce, was assigned to ecclesiastical uses. The Clergy, thus invested with property and authority, asserted their Rights as a Class, in the same manner as other Classes at other periods did; they obtained the privilege of exercising political power in their assemblies, and thus they became one of the *Estates* of the Realm. For instance, in this country, they claimed the right of taxing themselves; and in many cases, they claimed an exemption from the jurisdiction of civil tribunals.

1000. The demands of the Spiritual Estate may be pushed so far, that to concede them would produce, not an Established Church, but an Ecclesiastical Supremacy. In order to counteract this tendency, an Established Church must be placed under Royal Supremacy, or in some other way subjected to the Sovereignty of the State. The Sovereign, who is the Head of the State, must also be the Head of the Church; so far as its Government on Earth is concerned. He must convoke and dissolve the Legislative Assemblies of the Church, as of the State. He must be the Supreme Judge of Appeals; and must, in other ways, be recognized as Sovereign. In the practice of States, it has generally been assumed also that the Sovereign must have a large share of power in the appointment of persons to the higher offices of the Church, as Bishops; although the judgment of the Church is rather that such appointments should be by election in the Church itself. The Church, by acquiescing in the appointments made by the Sovereign, avoids conflicts concerning the political authority of the Bishops, which can hardly fail to arise, if persons are placed in that office by an authority independent of the State, and therefore possibly hostile to it. The appointment of the parochial clergy, also, may be modified by the alliance of the Church with the State. The Bishop alone can bestow upon any man the sacred ministry (823); but from among persons so ordained, the choice of a Minister for any particular Parish, may be in the hands either of the people themselves, or of the lord of the land (825), whose predecessor probably gave to the Church the endowment which it there holds; and who, in that as in many other ways, may be considered as summing up in himself the Rights and functions of the tenants of the land. This *lay-patronage* is not a desecration of the ministry (for the sacred character is bestowed by the Church

alone); it is rather a consecration of property; for it invests the holder of property with a function in the Christian Church, which ought to be performed in the spirit of religion.

1091. But as the State, for its own purposes, associates the Church in its Polity, this Association makes it necessary to give a certain character to the Polity for the sake of the Church. The State accepts the Church as the Teacher of Religious Truth; and upon this ground, joins with the Church, in Ecclesiastical Legislation, and Ecclesiastical Appointments. This makes it necessary for the Church to demand that there shall be some Test of religious Truth agreed upon, which may be applied so as to prevent such legislation and such appointments as would be hurtful to religious Truth. If the State is to legislate for the Established Church, the Legislators must be of the Established Church; or at least, must be friendly to it. If the State is to place persons in offices in the Church, there must be some means of ascertaining that they are of the Church.

1092. The various branches of the Christian Church (among which the question lies, in the cases with which we are here concerned) differ from each other in *Liturgies* belonging to their Ordinances, and in the *Articles* in which they have summed up the leading points of their Theology. And these are the Tests which must be applied by the State, if it will have an Established Church. The Articles and Liturgies must be assented to, by all who are to hold Ecclesiastical offices; and these also, or at least those portions of them which exclude Sects hostile to the Established Church, must be assented to by Legislators, and other persons holding prominent offices in the State. If this is not done; if persons avowedly hostile to the Established Church are placed in weighty official situations, without any effective tie to prevent their using their official power against the

Church; the Ecclesiastical Polity of the State no longer consists of an Established Church simply; but of an Established Church, along with a provision for *disestablishing* it.

1003. This brings us to a weighty disadvantage of the Polity of an Established Church, which it possesses, along with all the great advantages which we have noticed: namely, the difficulty of dealing with *Dissenters* from the Church. When we reject the System of Spiritual Domination, the very energy and freedom of mind which are requisite for this purpose, lead to differences in the Doctrine and Discipline of different Religious Communities. The aim and plan of the *Reformation*, which established the Church of England was to reject, both the Polity of Ecclesiastical Supremacy, and the various doctrinal Corruptions and Errors, which the Church of later times taught, along with that Polity. The Church of England retained Liturgies, and an organized Church Government by Bishops. But other Reformers, the Presbyterians, rejected Bishops; others, the Independents, rejected Church Government; and both, for the most part, rejected Liturgies. These Sects, however, did not professedly differ in essential points from the ancient Belief of the Christian Church, and are termed in England *Orthodox Dissenters*. Other Sects have arisen, rejecting more and more of the ancient belief.

1004. The Polity of an Established Church puts no difficulty in the way of the most complete Toleration of Dissenters. They may be freely allowed, under such a Polity, to worship according to their own rules, and to teach their own opinions without restriction, so long as they keep their teaching clear of sedition. But if the State wish to compel the whole of the population to be educated, then, indeed, the question of Dissent becomes a very difficult one. For to compel Dissenters to have their

children taught by the teaching of the Established Church, would be a violation of toleration ; and to accept the teaching of Dissenters as answering the purposes of the State, equally with the teaching of the Church, is to repudiate the view of the Church which its Establishment implies. To give the Church the means of educating all ; and to leave those who reject its education to their own teachers ; appears to be the nearest approximation to a Universal Education of the People, which can be made under the Polity of an Established Church.

1095. With regard to the political position of Dissenters, there are also considerable difficulties. Among Dissenters in England, are found a great number of persons hostile to the Church of England, and to the Polity of an Established Church in general. The State, having adopted the Established Church, cannot consistently arm with its power, those who would destroy that Church. The most simple mode of avoiding such a danger is to exclude Dissenters from all offices of Trust or Power, whether general or local. But the temper of the English Constitution, both makes such exclusions with every possible reserve, and leaves, to the persons excluded, many years of labouring to get their exclusion mitigated ; as Petitions, public writing and speaking, and the like. Hence, whatever the excluding boundary is, it is always a matter of contest between the Friends of the Church and the Champions of the Dissenters. If the Dissenters were only a small part of the population, the frontier of the Church might be defended with comparative ease and success ; and for this purpose, it was desirable, at the first, to make the terms of Communion with the Church as comprehensive as possible. Whether this was done as fully as it might have been, we need not discuss : but the barrier being once pitched, has become the line of

angry conflict, and probably could not be shifted with safety.

1096. An Established Church is the Church of the Nation ; and must retain that character, by acting for the Nation. She must, as far as possible, consider all the inhabitants of the land as belonging to her ; and must exclude none who will allow themselves to be included. She ought especially to make provision of religious teaching for the rising generations ; and her parochial system, if complete, and made always commensurate with the national domain, and with the population, enables her to discharge this duty, if the State duly support her in doing so.

1097. Not only has an Established Church a peculiar power, or rather the only full power, of educating an expanding population, if she be supplied with adequate means for doing this ; but the Idea of an Established Church is imperfectly carried into effect, if such means be not provided. For the State has adopted the Church, as the teacher of Religious Truth ; and is desirous of having Religious Truth taught to all its subjects. The religious teaching of the Established Church is not by permission, or under protection of the State, as is that of other Sects : it is *on the part* of the State. The State, desirous of teaching Religious Truth to its growing population, and having the means of doing this by the machinery of the Established Church, is *inconsistent*, if it do not provide for an extension of this machinery in proportion to the extension of the population. The State should make the teaching of the Established Church keep pace with the advancing numbers of the nation. If it do not do this, it incurs, so far as its neglect operates, the evils of ignorance, immorality, disaffection, and Religious Sedition, which it ought to escape in adopting the Polity of an Established

Church ; and which it might escape, or mitigate, by adopting that Polity more cordially.

1098. It is, of course, not meant that such education should be forced upon the people ; but that Education, according to the Doctrine of the Established Church, should be offered to all who are willing to receive it. Without some provision for doing this, the National Church is, as we have said, incompletely established. The existence of a large Body of Dissenters, by no means diminishes the importance of making such a provision. The State, regarding the Church as the Teacher of Truth, will naturally, by means of the Church, encourage and facilitate the passage of men from Error to Truth. In the eyes of the friends of the Established Church, it must be a national benefit, when men are converted from Dissent to the Church. Every Community of Christians has, by its Christian Principles, a *Missionary* character (743). It must endeavour to extend true Religion to those whom it can reach. And the State, if it fully adopts and establishes the Church, must also partake in this Missionary character ; and must look upon the Teachers of the Church, not only as the Religious Ministers for those who do belong to it : but as *Home Missionaries* to those who do not.

1099. But though the consistency of the State, which has adopted the Established Church as the Teacher of the Truth, requires this ; it may often be difficult for the Government to pursue this course. For this adoption of the Established Church, which we suppose to take place on the part of the Nation, may have been dissented from by a part of the Nation ; as has been the case in England. And this being the case, any public measures which are requisite, in order to carry into effect the complete Polity of an Established Church, under the successive circumstances of an empire growing in population and extent, may be thwarted by the imperfect na-



tional unity of sentiment on the subject. In the English Constitution, the Government cannot carry into effect any course of policy, without having with it, in a large degree, the concurrence of the Nation. And the enemies of the Established Church, acting through the forms of the Constitution, may be powerful enough to prevent the organization of the Church from growing and expanding, so as to continue commensurable with the growth of the nation and of the empire.

1100. The success of such a course of opposition may be looked upon as, to a certain extent, tending to *disestablish* the Church. If the Governors are really friends of and believers in the Established Church, they will oppose themselves to such a course of action. They will, of course, follow, with cordial reverence, the guidance of the Constitution, when it forbids them to act for the nation without the assent of the nation; but thinking the Established Church to be no less a blessing to the Country than the Political Constitution is, they will never, through indifference or ignorance, estimate too low or represent too feebly that portion of the National Sentiment which is on the side of the Established Church. The Polity of an Established Church requires to be administered in a different spirit from the Polity of the mere Protection of Religious Communities. Every State act which is conceived in the spirit of protecting all religions alike, is a step from Establishment to mere Protection. It is not that, in the Polity of an Established Church, nothing is to be done for Dissenters, by the State. They may receive from it, not only full Protection, but even such Assistance, as may make their influence upon the population more beneficial than it would otherwise be. But such assistance is given as an act of Prudence; the assistance given to the Established Church is given as an act of Wisdom; for it is given for the support

of the Truth. The policy of Government ought not to consist entirely of acts of prudence, with no acts of wisdom. If the Polity of an Established Church is to be upheld, there ought to be, corresponding with every State act of bounty or favour to Dissenters, some State act recognizing the Rights, and protecting the means of action, of the Church.

1101. It may happen that the Governors of a Country are led, by their views of religious Truth and sound Policy, to establish, in it, the Church to which belongs the smaller part of the population. If they find that they and those who are of their Church, though few in number, are, by the possession of property in the country, and by their social and jural superiority, as well as by their possession of religious Truth, the natural and inevitable directors and leaders of the country, it does not appear how they can rightly shrink from the Duty of establishing and promoting true Religion. They must consider themselves as the natural instructors of the Country. They see that they are appointed to introduce into it Order and Law; and they may naturally think themselves appointed to introduce into it true Religion also. They may very properly trust to the superiority of Truth over Falsehood; and may hope to see the Established Church draw into its fold the extraneous population, in proportion as civilisation and knowledge extend among them.

1102. When the Governors of a State have established, in any portion of it, the Church of the Minority, in the belief of its being the best form of Religion; their Polity is very incomplete, if they do not constantly aim, by education and otherwise, at such an extension of the Church. The neglect of this Duty will bring its own punishment. For instance: if some rival sect obtain a lasting hold upon the population, and convert the greater part of them into Dissenters; the position of the Established

Church is full of difficulty : for the general discontent at the exclusions which the preservation of the Established Church requires, and at its imperfect nationality, will grow with the growth of the national intelligence and activity. The difficulty is much increased if the Dissenters be adherents of a Polity of Spiritual Domination ; and hence, subject to an extra-national Head. This circumstance, however, does not diminish, but rather increases the value of the Established Church in such a Country ; as an anchor both of religious truth, and of national government.

1103. A State has, in some cases, different Churches established in different parts of its Empire ; as the Anglican Church is established in England and the Presbyterian Church is established in Scotland. This is not inconsistent with the principle of an Established Church, if there be no fundamental Error held by any of such Churches ; for then, they may be considered by the State as teaching the Truth under different forms, and in different ways. But in cases in which a State maintains a Religion which it believes to be false, its Polity is no longer Establishment, it is mere Protection.

1104. If it be asked, who is to judge for the State, what is true in Religion, and what is false ; we have already answered this question, in speaking of the Moral Character of the State (865). We have there stated that the Governors of the State, who act for it, also judge for it, in the manner and degree which the Constitution directs. They have their own convictions of religious Truth ; and to these they must wish the expressions of belief, on the part of the State to conform, but still, in such a manner that they shall express belief on the part of the State, and not merely the belief of an individual. The expressions of the belief of the State must be the acts of a continued existence, for instance ;

if the Governors of the State, and of the Established Church, find that the Church has fallen into grave religious and political Errors ; as for instance, has been led to assert the lawfulness of false oaths ; or the authority of an extra-national Sovereign : the Governors may undertake a *Reformation* of the Church. But they must, if possible, effect the Reformation by constitutional means. The Articles which are to define the Belief, and the Rules which are to determine the Organization, of the Reformed Church, must be decreed by the proper legislative Authorities, in the Church, and in the State. Hence the Governors of the State may often be compelled to make their public acts hang far behind their private convictions. The belief of the nation may change ; but it cannot change all at once ; and the Governors must not make the nation adopt a change of belief, merely because they themselves have changed. The Governors, in order to be able to make any great change *for* the nation, must put themselves in the condition of being able to make it *with* the nation.

1105. When Dissent has a hold upon any considerable portion of the population, the struggle between Churchmen and Dissenters will make its way into all parts of the nation ; and will combine with any other political contests which may be going on ; for instance, with the great and constant struggle between the Conservative and the Movement Party, of which we have already spoken (947). And it is a misfortune for the Established Church, that the cause of Freedom and Self-government, always very attractive and powerful names, appears, to a common glance, to be the cause of the Dissenters. Dissenters are naturally of the Movement party, in all measures in which the Church is concerned ; and these measures, even if this be all, are no small part of the Polity of the State. And hence, again,

the Established Church has for its opponents, not the Dissenters merely, but for the most part, the whole of the Movement party. This party, speaking generally, have a constant disposition to destroy the Established Church; to reduce the Ecclesiastical Polity of the Nation to a system of mere Protection of Religious Communities, and Equality of Religious Sects; and thus, to throw away all the advantages which we have stated as resulting from an Established Church.

1106. Besides the Duty of acting at Home is a Missionary character towards the dissenting Population, which Duty, as we have said (1098), belongs to a State in which there is an Established Church; there is also a Duty of carrying the National Church into the Colonies, if there be Colonies belonging to the State. For the same conviction of what is true in Religion, and beneficial in Polity, ought to direct the Governors in the administration of the Colonies, and of the mother Country. Yet in this, as in other cases, the previous History of the Colony may sometimes make it necessary to establish or protect a different Church from that of the Mother Country. But in proportion to the estrangement of the two Churches, the benefits diminish, which would arise from a National Sympathy between the two Countries, fostered by the love of a Common National Church.

1107. We have already said that the public measures which are requisite to carry into effect the complete Polity of an Established Church may often be thwarted by the want of national unity of sentiment with regard to the Church. On this account, it may be impossible for the Government to extend the teaching of the Church to the young in general, and to the growing population. They may not be able to direct the action of the State by constitutional means, so that it shall adopt the Missionary

Character of the Church, at Home and in the Colonies. Such exertions as this Character implies, require the appropriation of large sums of money. And the existence of a large Body of Dissenters, invested with considerable Political Power, may prevent the State from employing the public treasure for this purpose. But in proportion as the consistent support of the Established Church is thus omitted by the State, it falls, as an individual Duty, upon the friends of the Church. If the Polity of an Established Church is imperfectly carried out in public acts, it is the business of its members, by their private exertions, to supply the deficiency. They are, of course, fully persuaded of the immense benefits which an Established Church confers upon the Country, and of the superiority of that Form of Ecclesiastical Polity over the Polity of mere Protection; they are therefore impelled, by their love of their Country, to give to its collective Acts the character which a complete Established Church would give. What the State omits in its public Acts, they can, in many respects, supply by private labours and sacrifices, and by voluntary Associations. If the State will not act in a Missionary Character for the Church, they can form themselves into societies which act in a Missionary way, in behalf of Christian Truth, sound Doctrine and Apostolic Institutions.

1108. The friends of the Church have much reason to feel the force of this Duty. Because they are convinced of the value, and grateful for the blessings, of their Church, they must be ready to give, with their own hands, that which the State, if all the citizens were of their mind, would take from them and give for them. They are thankful to Providence for the endowments of the Church, which pious men, in former times, have bestowed upon it; and through which it has been, for ages, a blessing

to the Nation ; they may show their gratitude, by being themselves the founders and benefactors of new Schools, new Parish-Churches, new Bishoprics, an Established Church in the Colonies, Missions by which men shall be brought to be Christians, and the like. These are ways in which Churchmen may make the Church act more like a National Church than the State can do, however well disposed. Societies and Associations for such purposes may be considered as Institutions supplemental to those which exist in the Established Church ; and indeed such Associations, when they have taken root, may be recognized by the State as National Institutions. And those Dissenters who are satisfied with their condition as Dissenters, and do not wish to overturn the Established Church, may, by similar Societies, with objects somewhat differently defined, take a share in the National work of diffusing Religion at home and abroad.

Objections are sometimes urged against an Established Church on religious grounds : but these we will treat of in the next Chapter.

1109. We now proceed to consider a *fourth* form of Polity, which we have already spoken of as *Ecclesiastical Supremacy*, or *Spiritual Domination*. In this Polity, the Church has, here upon earth, a Head to which the Head of the State is subordinate. The pretended Head of the Church on earth claims his Authority on religious grounds ; and if, as we conceive may be shown, these grounds are utterly delusive, this is an irreligious usurpation, whether it be a good or bad form of Polity. But the former question, that of the religious authority of the Spiritual Domination, will be treated hereafter. At present we consider the question as a political one ; and we have to point out the advantages and disadvantages of this Polity.

1110. The System of the Ecclesiastical Su-

premacy possesses many of the advantages which we have noted as belonging to an Established Church ; namely, the religious character which can be given to all the solemn acts of the State ; a love of the country combining pious with patriotic feelings : the parochial division of the country with ministers and schools in each parish : the distribution of these parishes into dioceses, under the ecclesiastical rule of their Bishops. Indeed, in some respects, the system of Ecclesiastical Supremacy, supposing it cordially adopted by the State, would contribute, more powerfully than an Established Church, to an orderly condition in the Nation, and a moral conduct of the affairs of the State. For in this case, the State-authorities are sanctioned by the Divine Authority of the Church ; and the Ecclesiastical Power authoritatively directs the Temporal by the best of lights, that of Christian Morality.

1111. Moreover, in this Polity, the visible Head of the Church, whatever it be, the Pope or a General Council of Bishops, will naturally have authority to settle disputes among the Temporal Sovereigns who are sons of the Church ; and thus wars and national quarrels will be superseded by the reign of Christian peace and concord.

1112. Such is the Ideal Aspect of this Polity. But when we look at the attempts which have been made to carry such a Polity into effect, we see a very different spectacle. Probably a complete System of Spiritual Domination has nowhere existed, except in cases where the Religious Teachers have been, on temporal grounds, the natural rulers of the Laity ; for instance, when the Laity have been ignorant and unorganized savages, or a feeble and childlike race. Whenever attempts have been made to establish a system of Spiritual Domination in nations of energetic character, already swayed by their political Governors, these attempts have led to fierce



conflicts between the Ecclesiastical and Civil Power ; and the Ecclesiastical Supremacy has nowhere been completely established. The Sovereigns of every Nation in Europe have succeeded in possessing themselves, practically at least, of the greater part of the temporal Authority which the Popes, in the day of the full manifestation of their system, claimed as belonged to the Head of the Church ; such as the Appointment of Bishops, the Control of Ecclesiastical Revenues, the Authority of Supreme Judge, and the like. No Nation is completely subjected to the Ecclesiastical Supremacy. Those Nations which recognize the Pope as the Head of the Church on earth, have still, in various degrees, asserted the Liberties of their own Church ; and thus made it a National Church.

1113. But yet, in the degree in which Spiritual Domination has been exercised, we see how little fit men are to be entrusted with Authority of such a character. The Dignitaries of the Church, thus placed upon a footing of equal negotiations, or rivalry, with Statesmen, have by no means carried into action that better Morality in which we might expect religious men to excel politicians. In their political acts, they have been, like other statesmen, selfish, ambitious, false, violent. Indeed it might seem as if the absence of superior control, which belongs to unquestioned Ecclesiastical Sovereigns, tended to make men rather bad than good. Some of the most flagrantly wicked characters which history presents to our view, are the Church Dignitaries, and especially the Popes, just before the Protestant Reformation. It has been made apparent that the notion of a Christian world, governed in a Christian spirit, by an Ecclesiastical Body, under an Earthly Head, is one which, from the habitual conduct of men, must always be a mere dream.

1114. In National Churches, acknowledging the

Papacy, in modern times, the influence of Religion has been very different, according as there has been a cordial understanding between the Church and State, or not. Where such an understanding exists, as in Austria, the Romish Religion produces some of the good effects of which we have spoken. She adds to the reverence for authority, and softens the exercise of unquestioned power. She there appears the natural Ally of Despotism. But the Romish Religion can assume a very different aspect. Those who, in various countries of Europe, looking upon themselves as Members of the Church of Rome, are not satisfied with the manner in which the Church is protected or established in their own State, are very far from inculcating an unbounded submission to civil authorities. On the contrary, their discontent with the State, and their ecclesiastical organization, make them the natural leaders of an opposition to the course which the Government follows. In such instances, the Romish Religion appears as the natural Ally of Democracy.

1115. The Polity, of which the result is, that Religion assumes one or the other of the characters, is evil. In either case, Religion strengthens the side which is already too strong. She binds faster the fetters which the Despot imposes : she tears off the bands of Civil Society when they are already too weak. The two great and permanent Parties, the Conservative and the Movement Party, so long as they have temporal interests to deal with, preserve a sort of progressive equilibrium, and tend towards that mixture of Order and Freedom, for which the nation is fitted : but when Religion is thrown into one scale or the other, the balance is destroyed, and some violent revolution may easily take place. The Zeal for Order, the Love of Liberty, are calm impulses of themselves, when compared with the fire and vehemence which the contract of Religious Enthusiasm can communicate to them.

1116. If, as we conceive may be shown, the claim of the Roman See to be the visible Head of all Christian Nations, be a false view of the designs of Providence ; it is naturally to be expected, that the attempt to carry this view into practice, will distort and disturb the political relations of nations. By a survey of the political principles of action among men, we are led to conceive that nations were intended by Providence to work out their political Constitution by a combined operation of the Love of Freedom and the Love of Order, in the manner which we have already attempted to show (§29, &c.). The influence of an Extra-national Power, acting by means of Religious Enthusiasm, is a needless and dangerous addition to these principles of Political Power.

1117. Thus by a survey of the various forms of the relation of Church and State, we are led to believe, that if a Nation, in virtue of its historical circumstances, can obtain and preserve the blessing of an Established Church, it is in by far the happiest condition which the Nature of Man and of Human Society allows. If, in consequence of the unfortunate circumstances of the country, such an Establishment is, for the time, impracticable ; the State may be driven to a mere Protection of Sects, on the one side ; or to a recognition of Ecclesiastical Supremacy on the other. In the one case, great detriment is inflicted upon the National Influence of Religion ; in the other case, the National Independency is damaged, if the Supremacy be established ; and the balance of Order and Freedom is disturbed, so long as the struggle is still going on.

We have spoken of the religious falsity involved in the assumption of a visible Head of the Church on Earth ; and of the consistency of an Established Church with religious truth. These religious views of the relation of Church and State, we must very briefly discuss.

## CHAPTER XVII.

DUTY OF THE CHURCH AS TO ITS RELATIONS  
TO THE STATE.

1118. WE have seen that it is only by availing itself of the aid of the Church, that the State can pursue its higher object ; the moral, intellectual, and religious progress of the nation. We have seen also, that in order to derive the full advantage of this aid, the State must not only protect, but establish the Church ; must accept it as the true Church ; must secure to its Ministers a maintenance, with the means of teaching and directing the people ; must invest them with rights and authority of a civil kind ; must assign to their Bishops, or other Ecclesiastical Governors, a place in the Government of the State ; and must invest them with rank and dignity. The State has the strongest reasons to offer to the Church wealth and power, in order to obtain her co-operation.

1119. But here, the question occurs, Whether the Church can properly *accept* these offers ? The Church must direct her conduct by the commands of Christ and his Apostles, and by the Spirit of their teaching. And there are texts which express, or seem to imply, directions to the Christian Minister, not to mix himself with the business of the State. His concern is with men's Souls, not with their bodies or worldly condition. Christ says, *My kingdom is not of this world*. He commands his disciples, when they go forth to preach his Gospel (Matth. x., 9. Mark vi., 8. Luke ix., 3), *To provide neither gold, nor silver, nor brass, nor scrip, nor two coats*. He warns them against taking authority upon themselves (Matth. xx., 25. Mark x., 42). *Ye know that the princes of the Gentiles exercise dominion over them, and they that are great exercise authority upon*

*them, but it shall not be so among you.* So Matth. xxiii., 10, *Be not ye called masters.* And the general tendency of the teaching of Christ and of the Apostles is, to inculcate, both an indifference to human riches and possessions, and a humility, which shrinks from human honours and political power. It may therefore seem to be inconsistent with the Christian temper of the Church, to accept such offers of maintenance and authority, as we have shown reason for the State making to her.

1120. But we may remark, in the first place, that the injunctions, to disregard earthly possessions and earthly honours, are given, not to Christian ministers in particular, but to Christians in general. We have already (620) considered the importance of these warnings against covetousness; but we have shown (615) that these warnings do not prohibit, and did not in the first ages prevent, distinction of property, and differences of wealth among the Christians. Nor did they prevent property being held in a permanent form. The injunction to take *no thought for the morrow*, was always understood of such thought as might interfere with religious care about spiritual things. There is no religious reason why Christians, and the Clergy as well as the rest, should not possess property on which they may depend for their subsistence and power of action, while they devote their time and labour to their own spiritual progress, and to the teaching and assisting of others.

1121. That the Christian Teachers ought to be supported by their flocks, was a rule which prevailed from the earliest times of the Church. St. Paul says expressly (1 Cor. ix., 14), *The Lord hath ordained that they which preach the Gospel shall live by the Gospel*; and he then quotes Christ's expressions, used when the Apostles were sent forth (Luke x., 7), *The Labourer is worthy of his hire.* He further urges, as proof of the reasonableness of this Rule, both the ordinances of the

**Mosaic Law**, and the general practice of mankind ; according to which, the soldier, the wine-grower, the grazier, live by their respective employments. This he urges, entirely for the sake of establishing the Rule ; for, as he says, here and elsewhere, he rejects the benefit of it in his own case (1 Cor. ix., 7 and 15. 2 Cor. xi., 9. Gal. vi., 6. 2 Thess. iii., 9. Acts xx., 33).

In the earliest times of Christianity, the Ministers received their maintenance from the Hospitality of the Christians, dispersed through all parts of the Empire : but when the Empire itself became Christian, Churches and religious bodies were invested with the right of holding property. And it has been shown that such a maintenance of the Clergy in the form of permanent property, free from the uncertainty and distraction of casual contribution, is opposed to no dictate of Religion : if offered by the State, it may be accepted by the Church.

1122. In the next place, as to the Dignity and Power conferred upon the Christian Clergy, it is evident that the injunctions above referred to, containing warnings against ambition and rivalry among Christians, do not apply to cases in which the Christian Minister is requested by his Christian brethren to exercise authority in worldly matters, in virtue of the confidence they have in his ministerial character, and in authority exercised according to Christian principles. St. Paul rebukes the Corinthians (1 Cor. vi., 1), while they were but a small part of the Community, for going to law before unbelievers. If, then, he had lived in a Community altogether Christian, it may be inferred, that he would have invested Christians as such with judicial powers, in the name of the State. The Bishops and Presbyters were Judges and Legislators for Christians then ; why should they be less so now, when all persons profess Christianity ? If the State, on the part of the Chris-

tian Community, offer, to the Bishops and Presbyters, such dignity and authority as may make them valuable helpers in the business of the State, there appears to be no ground, nor valid excuse, for their rejecting the offer ; especially when it also tends so much to forward that religious Duty, of bringing men to the knowledge of Christ, which is the highest object of their lives.

1123. With regard to such passages as have been referred to, where Christ says that his kingdom is not of this world, and warns his disciples against exercising authority ; it is plain, from the context, that these expressions were employed to correct erroneous views of the nature of his kingdom, and of the office of his Apostles and Disciples. When he told Pilate that his kingdom was not of this world, it was in order to disclaim his being a king, in that sense of rivalry to the Roman imperial authority which would have made him criminal in Pilate's eyes. Accordingly, Pilate, after hearing this declaration, said (John xix., 4), *I find no fault in him.* And the other warning is explained by the occasion on which it was given. When, on his way to Jerusalem, the disciples had had their worldly ambition enflamed, by misunderstanding what he had said (Matth. xix., 23), that they should *sit upon twelve thrones, judging the twelve tribes of Israel.* By this error, the mother of James and John had been impelled to ask (Matth. xx., 21), that they should *sit one on his right hand, and the other on his left, in his kingdom.* And he then uttered the injunction above quoted, in order to quell these ambitious thoughts : adding, *Whosoever will be great among you, let him be your minister ; and whosoever will be chief among you, let him be your servant ; even as the Son of man came not to be ministered unto, but to minister.* But this injunction would not answer the end thus pointed out, if the Church were so to apply it as to permit her

Officers and Governors to *minister* only in those offices of the State, in which their services would be least valuable. Bishops and Presbyters minister to the good of Society, more by acting as Legislators, and as the Guides of their Parishes, in Civil, as well as Religious good works, than they would do as simple citizens : for, as we have seen, without such a union of offices, the State cannot pursue its highest objects. If the Church were thus to repulse the Offers of Honour and Office made to her by the State, as being a State of Christian men who believe that she is the true Church, and that, without true Religion, there can be no true benefit to man, or any blessing from God ; she would sin against the command, to do good to all men, *especially to those who are of the household of faith*. With regard to temporal honours and riches, she must know both *how to be abased, and how to abound ; how to be full, and how to suffer need* (Phil. iv., 12). And if, in the course of Providence, she has to labour in conjunction with the State, for the moral and religious advancement of men, the duty of Christian humility does not exclude official authority. Christ himself, while he offers himself as an exemplary reproof of unmeet assumption of superiority, was rightly called *Lord and Master* (John xiii., 13 ; Matth. xxiii., 3). And St. Paul, notwithstanding such injunctions, gives various directions to the Churches, and to his disciples, Timothy and Titus ; which imply that he expected to be obeyed. And (2 Cor. x., 4, &c.) he speaks strongly of the authority, which he might find it necessary to exercise at Corinth. *The weapons of our warfare are not carnal, but mighty through God to the pulling down of strong holds. And though I should boast somewhat of our authority which the Lord hath given us for your edification, I should not be ashamed.* The kind of authority which a Christian Teacher might claim, in the earliest times, he may



accept, when offered by the State, on the part of a Christian community, in all later times.

1124. Thus the Church must allow her Ministers, and her Governors, to be invested with authority in the State, in virtue of that very injunction to humility which has been quoted: *Whoever will be great among you, let him minister.* The Church, in accepting this lot, is not forgetting the declaration of Christ, that His kingdom is not of this world; but fulfilling the prophecy, that the kingdoms of this world shall become the kingdom of God and of his Christ.

1125. As the Church may accept other situations in the State, so it would appear that she cannot refuse the highest situation, that of the Sovereign Power, if it is really offered her by the whole community, acting through its constitutional Authorities. If any nation were, in this manner, to offer their allegiance to the Ecclesiastical Head of the Church, and if he were persuaded that he could exercise such authority with advantage to the community, it would seem to be a Christian Duty to accept the office. But this does not at all disturb what has already been said, of the evils of the Ecclesiastical Supremacy (1113). Taking into account what has been said of those evils, we should judge that the nation who thus sought for a spiritual domination to be erected among them, were much mistaken, and had made little progress in political wisdom.

1126. Nor does it appear that we could deny the Right of a nation to give their allegiance, even to a foreign Ecclesiastical head; and his Right, and it might probably be, Duty, to receive it. If any Nation, acting with a full consent, and in constitutional ways, should declare the Bishop of Rome to be superior in authority to their temporal sovereign, they do no more than, as a Nation, they have a Right to do, however unwisely they may act in so doing. But

the case is different, if the Sovereign himself, a King for instance, acknowledges the Bishop of Rome his superior; and thus makes him, the Pope, the Sovereign of the kingdom. For the King cannot be supposed to have been Sovereign for such a purpose. He was Sovereign, in order that he might be Sovereign; not in order that he might hand over the Sovereignty to another. By doing so, he has transgressed the limits of his legitimate power, in the most decisive and flagrant manner. By giving his Sovereignty to another, he has abdicated his throne, and made it necessary for the other branches of the Constitution, to provide for the safety of the State.

1127. Hence, the pretensions of the Pope, which have in former times been put forward to a sovereignty over kingdoms, in virtue of cessions of the kingdoms made to him by the kings, are contrary to the moral principles of Polity. They are as unfounded as the claim which a King of France might make to England, on the ground of having had the island ceded to him by a former King of England.

1128. But the Ecclesiastical Supremacy of the Pope over the Kingdoms and States of the Christian world, has been asserted also on other grounds; not in virtue of their having been ceded to him by former Temporal Sovereigns, but in virtue of a Divine Right to this Sovereignty. It is asserted that it is the Duty of all Christian Nations to acknowledge the Bishop of Rome as their Ecclesiastical Head.

The Supremacy, or Primacy, which has been claimed for the Bishop of Rome has been grounded on this argument; First: To St. Peter was given by Christ a Primacy, or supremacy of official dignity and power in the Church, beyond the other Apostles: Second; this Primacy was an Office designed to be permanent in the Church: Third; the Bishop of Rome is St. Peter's Successor in this Office.

1129. But every step of this argument fails.

We do not find in the New Testament any Primacy ascribed to St. Peter. Christ gave his promises of future guidance and help, alike to all the Apostles. The power of the keys which was given to St. Peter (Math. xvi., 19), was given to the other Apostles also (Math. xviii., 18). The declaration (Math. xvi., 18), *Thou art Peter, and upon this rock I will build my church; and the gates of hell shall not prevail against it*; cannot be understood as if Christ's indestructible church were to be built upon one particular person different from himself: the rock is the previous declaration (verse 16), *Thou art the Christ, the Son of the living God*. Even many of those among the ancient Christian writers who apply to St. Peter especially the terms, *Thou art the rock*, and *I will give unto thee the keys of the kingdom of heaven*, interpret it of St. Peter's opening the preaching of Christ after the resurrection (Acts ii., 22), and extending his preaching to the Gentiles. The narrative (Math. xx., 25; Mark x., 42) gives an account of the earnest warning which Christ gave to the Apostles, when two of them, John and James, sought a superiority over the rest. In the history of the Apostles, we find no primacy ascribed to Peter. St. James, not St. Peter, spoke in the name of the assembled Apostles at Jerusalem. St. Paul withheld Peter at Antioch, and declares that he was to be blamed (Gal. ii., 11). And in his enumeration of the offices in the church, he says (1 Cor. xii., 28), *God hath set, first, Apostles, not, first, St. Peter*.

There is another passage, by which the claim of St. Peter's primacy is sometimes supported; namely, when Christ says to him (John xxi., 18), *Simon, son of Jonas, lovest thou me?....Feed my lambs...feed my sheep*. But here, evidently, Jesus Christ is not conferring a power upon Peter, but giving an admonition. St. Peter himself uses the expression in the same way (1 Pet. v., 2), *Feed the flock of God which*

*is among you.* He also, in the same place, implies a condemnation of assumed superiority: *Not as being lords over God's heritage.*

1130. The second assertion, that the primacy given to St. Peter was intended to continue in the Church in after ages, is generally supported by urging that such a primacy is necessary to preserve the Unity of doctrine and discipline in the Church. But we must reject altogether the arguments of a disputant who imagines to himself a constitution of the Christian Church which he conceives to be necessary to its completeness; and on this ground asserts that such a constitution has always existed. We cannot assert anything to be necessary to the constitution of the Christian Church which Christ and his Apostles have not declared to be necessary. Nor does it appear that the primacy of the Bishop of Rome is fitted to secure, or has secured, the unity of doctrine and discipline in the Christian Church.

1131. The third assertion; that the Bishop of Rome is the successor of St. Peter in the office of Head of the Church; is contrary to the early history of the Church. The Bishop of Rome was always recognized as the successor of St. Peter in his bishoprick. But the claim of a legislative and judicial power over other bishops and their sees, was never allowed till a much later period; and was never generally allowed, even in those churches which agreed in doctrine with the Church of Rome. The Gallican Church, for instance, always strenuously denied the absolute authority of the Bishop of Rome as Head of the Church.

1132. It is very natural for Christians to desire to see on earth a visible and organized embodiment of the Universal Church of Christ;—that Body of Believers, united to Christ as their Head, to which are promised, as we have said (590), unity, perpetual existence, and the possession of Religious Truth

through the guidance of the Holy Spirit : to which also is committed the office (743) of constantly labouring to make all men truly Christians. And the defenders of the Romish Church represent their Church as this Universal Church ; having the Pope, guided on some occasions by a General Council of Bishops, for its earthly Head ; and having Ecclesiastical Governors and Ministers, of various degrees and offices, acting in a regular subordination, in every Christian Country. But the experience of all history shows that, as we have already said, men are not sufficiently pure and spiritual to be intrusted with a *Supernatural Authority*. The Papacy, at an early period, usurped temporal power : and ever since, there has been a struggle between the Ecclesiastical and the Political Authority, in every country into which the Romish Church has found admission. The struggle has, in different ages, turned upon various points, and been carried on by various means ; but it has never ceased. The Pope has claimed and exercised, at various times, the Right of Deposing Sovereigns, of absolving Subjects from their Allegiance, of excluding whole Nations from a participation in the Ordinances and privileges of the Christian Church, of sole Jurisdiction over all ecclesiastical persons, and the like. Such claims, if allowed by States, would render the whole population of Christendom subjects of the Pope, in temporal as well as spiritual matters. By the very Idea of the Catholic Church, these claims, if they were ever Rights of the Church, must be so still ; and may be revived, if a favourable occasion should ever arrive. But in more recent times, the struggle between the Papacy and the National Government has turned upon other matters, as the appointment of Bishops, and their power in the State ; but especially upon the question of Education : for this is a matter in which, as we have said, if the Church be protected

only, there must be a struggle between the Church and the Ministry of Education (1083). The Romish Church, wherever it is protected, must, by its principles, seek to rule or guide the State. It is the necessary and perpetual rival of the National Government. It does not appear that any position of equilibrium can be found, in which the Romish Church and the National Government are balanced. It does not appear that the Rights of the National Church, considered as a branch of the Roman Catholic Church, can ever be so defined as to produce a tolerable measure of tranquillity. The whole history of Europe, especially from the time of Pope Gregory the Seventh, is, for the most part, the history of the War between the States of Europe and the Papacy. In England this war never ceased to agitate and torment the land, till the time of the Reformation. Perhaps in Countries where the Government is despotic, there may be a treaty of alliance between the Roman Catholic Church and the Despotic State, by which, expressed or understood, the subjects may be retained in tranquillity ; but this must be a tranquillity which excludes all Political Freedom and all Moral and Religious Progress. Where there is a movement party, as we have said, its dangers and evils are greatly augmented by its combination with a Romish Party in the same Country (1114).

1133. The experience and apprehension of the national evils belonging to the Romish System of Ecclesiastical Polity, joined with a conviction of its religious errors, led many nations in Europe to cast off its yoke, and to establish National Churches. These National Churches are members of the Universal Church of Christ ; but, for the most part, they have no established extra-national relations and ties ; except so far as religious sympathy may be deemed to be such. They have no extra-national earthly

Head; if they have a visible Head, it is the Head of the Nation: the Sovereign. For since the Religious cannot be made superior to the Political Authority, the Political Authority must be superior to the Religious, in matters in which the Ultimate Authority comes into play. In such National Established Churches, the Ecclesiastical Authorities, as they are upheld by the State, derive their Authority in some measure from the State; this derivation not interfering with the Spiritual Authority which they have as ministers of the Church of Christ; and which they derive from Christ's Commission (821), through the channel of the Spiritual Authorities of the Church.

1134. A National Church affords a position of equilibrium for the Relations of Church and State, in proportion as it is fully and completely established. If the Polity of an Established Church be imperfectly carried out, then there arise, as we have said (1100 and 1102), great difficulties; especially on the question of Education. These difficulties may draw the Polity nearer and nearer to the Polity of mere Protection of the Church. But this latter Polity, as we have already said, has its own difficulties and evils, which are far greater than those of an Established Church.

1135. By the views which we have explained in the present and the preceding Chapter, we are led to the conviction that the Polity of an Established Church is the intermediate position of national safety, national morality, and national progress, between the system of an equal Protection of religious truth and falsehood, which can never satisfy a religious nation; and the System of Spiritual Domination, which is inconsistent with national tranquillity and freedom.

# BOOK VI.

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## INTERNATIONAL JUS.

### RIGHTS AND OBLIGATIONS BETWEEN STATES.

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#### CHAPTER I.

##### INTERNATIONAL LAW.

1130. We have already spoken of States as Moral Agents, and have treated of their Rights, their Obligations, and their Duties. We have hitherto spoken of these, only so far as they belong to the relation between each State and its own members. But States have also relations towards each other. States are Nations, acting through an organized Government; and Nations, as well as Individuals, may commit acts of violence, make agreements of mutual advantage, possess property with its appendages, and the like. In such actions, there must be a difference of right and wrong: Morality must apply to the dealings of Nations with each other; and before quitting the subject, we shall treat briefly of that branch of Morality.

1137. In the Morality of Nations, as of individuals, Duties must depend upon Rights and Obligations; and Rights and Obligations cannot exist without being defined.



The Rights and Obligations of individuals are defined by actual existing Laws: they have their form and limits, in each State, given them by the National Law; but their general conditions are the subject of an especial branch of Morality which we have termed *Jus*. The Rights and Obligations of Nations must also be defined by actually existing Laws. The body of Law which gives them their form and limits is *International Law*. But, inasmuch as there exists no single definite seat of authority, from which such International Law can be promulgated, in the way in which the National Law is promulgated by the National Government; the Rights and Obligations of Nations are determined, in a great degree, by a consideration of their general conditions; that is, by *International Jus*. And hence, we give to this part of our subject, rather the latter name, implying a Doctrine of International Rights and Obligations according to their nature, than the more usual name, of *International Law*, which appears to imply a Code of such Law, already established by adequate authority.

1138. But it may be asked; If no Code of International Law exists, how can International Rights and Obligations exist? and how can the Morality which assumes their existence be real? since we have already shown that Rights cannot actually exist without being defined, and cannot be defined except by Law. To this we reply, that though there is no Code of International Law, promulgated by any single Authority, there are many Rules, Maxims, and Principles, which have been, at various times and on various occasions, delivered by various authorities; and which, being accepted and sanctioned by the assent of Nations in general, do compose, in some degree, a body of International Law. It may be added, that in so far as this body of Law is loose and imperfect, Rights and Obligations are

also loose and imperfect, and the grounds of International Morality shake under us. It may be added further, that the body of International Law, in the course of the jural and moral progress of Nations, constantly becomes more and more exact, more and more complete: and that, along with this improvement and extension of International Law, International Morality becomes more and more firm in its basis. Nations have the power of pushing onwards their moral and intellectual progress in this direction, no less than in others.

1139. International Law is sometimes called *The Law of Nations*: meaning, by this phrase, the Law *between* Nations. But this phrase may create confusion, from its resemblance to the phrase *Jus Gentium*, which is used by the Roman Lawyers, to denote, not International Law, but Positive or Instituted Law, so far as it is common to all Nations. When the Romans spoke of International Law, they termed it *Jus Feciale*, the Law of Heralds, or International Envoys.

1140. The *Jus Gentium*, the Instituted Law common to all Nations, is sometimes put in opposition to *Jus Naturæ*, the Law of Nature, a Law which it was conceived might be deduced from necessary Principles. Thus Grotius\* asserts that *jure naturæ*, subjects are not bound by, nor responsible for, the acts of the Sovereign, but that *jure gentium*, they are. But from what has been said already, we see that this distinction cannot be maintained. For, as we have said, no *Jus*, no doctrine concerning Rights and Obligations, can exist without Definitions of Rights and Obligations; and such definitions must be given by historical fact, and not, by mere reasoning from ideas, as the conception of a *Jus Naturæ* assumes. And as this general reasoning shows that there can

\* *De Jure Belli et Pacis*, III., 2., 1.

be no force in distinctions like the one just quoted, so we can easily show the distinction is untenable in the special instances. The reason which Grotius assigns for the distinction is this: *Mero naturæ jure, ex facto alieno nemo tenetur nisi qui bonorum successor sit*: "By the law of nature, no man is bound by another's act, except he have the succession to his goods." To this argument we reply, that children are bound by the acts of a parent, not in consequence of any special expectation of succeeding to his goods, but in virtue of the general tie of the Family; and that subjects are, in like manner, bound by the acts of the Sovereign, in virtue of the general tie of the State. The State is a bond which unites men *Jure Naturæ*, in the same sense in which the Family does. Man, considered as a moral agent, can no more divest himself of the bonds of social, than of domestic society. The assumption of a State of Nature in which family ties, and their bearing, on property, exist, while political ties do not exist, is altogether arbitrary. We see this arbitrary character strongly marked in the argument of Grotius. To say that, by the Law of Nature, the succession of children to the goods of the parent is recognized, but the authority of the sovereign is not recognized, is to assume a Law of Nature at variance with the most general Laws of Nations: for all Nations have enforced the latter Rule, but many have rejected, or limited and modified the former.

1141. But though we are thus led to reject the *Jus Naturæ*, as a source of Rights separate from, and opposed to, the *Jus Gentium*; we are not to lose sight of the truths which Jurists have endeavoured to express by this separation and opposition. And these truths are of two classes. In some of the contrasts of this kind, the Law of Nations stands above the Law of Nature, as being a source of more full and definite Rights. Such is the case in the instance

just noticed: for there, the bond that unites the Sovereign and the Subject is spoken of as something added, by the Law of Nations, to Rights and Obligations which man has by the Law of Nature. And the truth here involved is, that however imperfect political Society may be, we can conceive man to exist in a State in which political ties are still weaker, and yet not quite to lose his moral nature. If, hypothetically, we take away the mutual relations of the State and its subjects, we can still conceive the relations of Family to remain; and even Property to exist: although, in truth, on this hypothesis, Property can exist only, in so far as the Family takes the place of the State.

1142. But in another class of such contrasts, the Law of Nature stands above the Law of Nations; as being a source of a higher morality than may be exemplified by any given rude state of Law. Thus we may say, that, among the ancients, by the Law of Nations, the inhabitants of a conquered country became slaves: but that there is a Law of Nature, the bond of a common humanity, which abrogates this cruel Law. And the general truth involved in such assertions is, that the Law of Nations, whatever, at any particular time, it may be, may always be made more just and humane; and ought to be made more just and humane, in order to correspond to man's moral nature. As in the former contrast, it was implied, that the Law of Nations is never so bad as to divest man of his moral nature; so here it is implied, that the Law of Nations is never so good as fully to satisfy man's moral nature.

1143. The Law of Nations, including, in this, International Law, is subject to the conditions of which we have already spoken as belonging to the Law of any one Nation. It is capable (457) of Progressive Standards: it is fixed for a given time,

and obligatory while it is fixed : but it must acknowledge the Authority of Morality (461), and must, in order to conform to the moral nature of man, become constantly more and more moral. The progress of International Law in this respect, is more slow and irregular than that of a well-guided National Law ; and this circumstance, as well as the feebleness and more mixed character of the authority of International Law, may sometimes make the influence of Moral principles more obscure in this than in other departments of Morality. Yet a brief survey of International Jus, in the form in which it is presented by some of the most generally esteemed writers on the subject, will show that it is, in fact, an important part of Morality, and depends mainly upon the Principles which we have already established.

1144. We have said that International Law, in its rudest form, involves a recognition of the moral nature of man. To illustrate this, we may remark, that in the rudest form of International Law, we have a distinction of the states of *War and Peace*. This distinction implies a limitation, by common understanding or agreement, of the state of universal war of every man against every man, which we must conceive to prevail, if we consider man as a creature impelled merely by desire and anger. Among animals, we have, properly speaking, neither war nor peace. Some live together harmlessly, some are in constant conflict, according to their instincts. There may be pauses of the struggle, arising from mutual fear, or satiety. But there is, in such creatures, no consciousness of a common Rule, no apprehension of Rights vested in the parties by such a Rule. The conception of the *Rights of War* introduces the moral nature of man. In our survey of International Rights we shall therefore first speak of these.

## CHAPTER II.

## THE RIGHTS OF WAR.

1145. HISTORY give us a glimpse of an ancient state of things in which the distinction of War and Peace had not been established for nations in general. The occupation of the Pirate, who plunders all whom he can overpower, was not less honourable than other occupations; and States granted to other States, or to particular persons, a protection from spoliation (*ἀρσυλλία*) as an exception to a general Rule. When peaceable relations were permanently established among the Greek States, this was still looked upon as the result of a Convention, which included them only. In Livy,\* the Macedonian ambassadors say, "Cum barbaris eternum omnibus Græcis bellum est, eritque." A like state of things is indicated by the Latin word "hostis," which signified alike "a stranger" and "an enemy."† The introduction of the term "perduellis," an enemy *proprio nomine*, indicated the establishment of a distinction between the two, though Cicero interprets the fact the opposite way; namely, that the open enemy was called a *stranger* as a gentler term, "lenitate verbi tristitiam rei mitigante."

1146. It was an important step in International Law, to establish this distinction between War, and Piracy, the practice of general spoliation. And for this purpose, it is proper to give a definition of War. A definition which has been given, and which may serve as the basis of our remarks, is this,‡ "Bellum est contentio publica, armata, justa." It is necessary to attend to each of these three conditions. War is a *public* contest: it is the act of the

\* B. xxi., c. 29.

† Cic. *Off.*, i., 12.‡ Albericus Gentilis, *De Jure Belli*. 1589.

State towards another State ; not an act of or towards individuals. Hence, a contest with Pirates and Robbers, who are lawless individuals, is not a War ; nor do the Rights of War belong to such persons. Again, War is an *armed* contest : for States, having no common superior who can decide their dispute, have no other ultimate authority to which they can appeal. On this account War has been termed "*ultima ratio regum*." But still, though the contest is an armed, it is a *just*, that is, a professedly just one. Though War is appealed to, because there is no other ultimate tribunal to which States can have recourse, it is appealed to *for justice*. It may easily happen between States, as between litigating individuals, that each has a just cause. Thus, when Attalus left his kingdom by testament to the Romans, the heir had the Right of legitimate, the Romans, the Right of testamentary succession. It is necessary that a State should have on its side some such asserted Right, in order that its War may be consistent with International Law. A State which should make war upon its neighbours, without asserting any claim of Right, professing only a desire of conquest, a hatred of its enemy, or a love of war for its own sake, would have no just claim to the Rights of War ; and might most fitly be declared a Common Enemy, by all States which acknowledge the authority of International Law.

Under the above conditions, States have a Right to make War, as we have already said (835). This Right may be unjustly, that is immorally, used ; as individuals may use their Rights immorally, and may employ the forms of justice for unjust ends.

1147. War, so understood, is conceived as a state in which the hostile parties have mutual Rights and Obligations, notwithstanding the efforts they are making for each other's damage or destruction. The Rights of War, among the ancients, extended to the

Right of enslaving or putting to death all who were taken prisoners in battle, and even all the inhabitants of a conquered country. Yet the same Laws of War condemned those conquerors who refused Sepulture to the dead bodies of their enemies; the same Laws required a reverence for the Heralds who acted as international envoys, and an exact fidelity in observing Truces and Treaties. Moralists have been blamed for saying that to enslave vanquished, and to kill captive enemies, is not contrary to the Natural Rights of War. Yet we see how natural such practices are, for they occur in all nations at the early periods of their jural career. The proper condemnation of these practices is, not that they are contrary to the Natural Rights of War, but that they are the Rights of War in a rude and savage condition of nations, and are condemned by International Law, when it has made any considerable progress in humanity.

1148. In ancient Greece and Rome, every citizen was considered as a soldier; but in modern times the *combatant* is distinguished from the *non-combatant* part of the nation, and there are different classes of Rights of War applicable to these different classes of persons.

1149. The Rights of War, as they affect *Combatants*, are purified from much that was savage and cruel in their earlier form, by taking into account the general conception of War; that it is the use of the public Force of the State in order to enforce its asserted Right. The public Force, Armies, and Navies with their munitions, act so as to damage, defeat, and destroy the Armies and Navies of the enemy. Armies are defeated by destroying their organization; and hence, as soon as a man, or a body of men, by surrendering, has ceased to belong to the organization of the army, he is no longer an object of active hostility. He is a prisoner. The



same is the case, when a ship, in a fleet, strikes her colours. In the siege and capture of a fortress, the amount of severity exercised upon the defenders of the place, depends upon the obstinacy of the struggle between them and the assailants. If the defence have been very obstinate, and the place is taken by storm, the practices of War, up to the most modern times, partake of the savage and cruel habits of the rudest nations. But though, on such occasions, unresisting men and helpless women may suffer death or violence in hot blood, the voice of all civilized nations condemns, as violators of the Rights of War, the soldiers who commit such deeds in cold blood. Sometimes severities are inflicted upon a captured garrison, professedly on account of a resistance too long protracted. In such cases, the severity may be considered as a punishment which the Laws of War entitle the victor to inflict, in return for damage and delay which the defenders have needlessly occasioned him, since their ultimate success was hopeless. The Romans spared the garrison of a place, if it surrendered before the battering-ram struck the walls. To put to the sword the garrison of a captured place, in order to strike terror into other places, and paralyze their resistance, is a course which has an aspect of savage cruelty; yet it is asserted to be conformable to the Laws of War; and has even been defended, as humane, because it tends to bring the War to an end. In like manner, the putting prisoners to death in the way of retaliation, or of punishment for violated faith, has a most cruel aspect; yet if this be not done, how is the cruelty, when commenced on one side, to be punished or stopped? and how can there be any value in the giving of Hostages for the performance of a treaty? That War has necessarily inhuman features, such as these, shows us how much the cause of humanity requires that the operation of War should be superadded in all possible cases.

1150. The Laws of War which limit the modes of action of the combatants, flow from the conception of War,—that it is the Action of one State against another State, to enforce justice by its public force. The force used is to be public; hence assassins, poisoners, secret incendiaries, are prohibited. Damage done by such means, cannot be avowed by a State; and hence, cannot be a part of the conduct by which the State publicly seeks justice. Also, such damage cannot be used so as to make a State alter its conduct, and therefore cannot be used so as to obtain justice. But this view does not prohibit operations which are clandestine for a time, as an ambush, or a mine; for these are works of an army, and have the same results as other acts of warfare.

1151. Stratagems are frequently employed in warfare; and it may appear difficult to reconcile some of these with Good Faith; as when a general allows his enemy to get hold of letters, or informants, purposely contrived to deceive. But it is to be recollected, that the Rules of Good Faith apply only to those modes of communication with regard to which there is a Mutual Understanding. Soldiers are bound in Good Faith to respect a truce, a flag of truce, a demand of parley, or any other recognized mode of communication between combatants: for these proceedings are conformable to known Laws of War, and tend to the termination of hostilities. But when a general judges of his enemies' intentions by his motions,—the information of neutral persons, intercepted letters, and the like,—he rests, not upon a mutual understanding, but upon his own sagacity and vigilance, in detecting the truth from the appearance. At the same time, the Laws of War allow him to visit, with the utmost severity, any person who intentionally misleads him by false intelligence.

1152. It appears, at first, an inconsistency in the Laws of War, that though they do not forbid a

general to use Spies, or to tempt the enemy's soldiers to desert, they visit with immediate death any one found engaged in such attempts. But it is to be recollected that in War, the infliction of death is not a punishment, but a means to an end. A general must, from a regard to his own safety and success, make the task of spies and seducers as difficult and dangerous as possible.

1153. By the progress of the Laws of War, from their ancient to their modern forms, much has been done to make Warfare more humane, or, as it is termed, more civilized. In the middle ages, the practice was introduced of sparing the lives of conquered foes, and giving them their liberty, on the payment of *ransom*. In more recent times, when soldiers yield, they ask for *quarter*, and are made *prisoners of war*. Such prisoners are often exchanged between the two hostile parties by a *cartel* or agreement. And even before a prisoner of war is liberated or exchanged, he often has his liberty allowed him, on giving his *parole*, or word of honour, that he will not serve as a soldier till the War is ended.

1154. In War, as we have said, the destruction of men is used as means to an end ; but every step, in the Laws of War, by which bloodshed and violence are, in their extent, limited to their end, the attainment of just terms of peace, is a gain to humanity. Hence it is to be desired that the Laws of War should condemn that wanton and aimless inhumanity which, as has been mentioned, is often perpetrated in hot blood on the storming of a fortress. It is therefore very satisfactory to find an eminent military writer\* expressing an opinion, that the plunder of a town after an assault ought to be made criminal by the Articles of War.

1155. In the treatment of *Non-combatants*

\* Napier, *Hist. of the War in the Peninsula*, Vol. vi., p. 215.

especially, the modern Laws of War are more humane than those of ancient times. When an enemy invades the territory of a hostile State, it strikes at the State, not at individuals. Its object may be to take permanent possession of the territory on the part of its own State ; but at any rate, its operations suppress and exclude the authority of the hostile State ; and thus do violence to it as a State. Hence, the invading army, so far as it succeeds, supersedes the higher functions of the State in the invaded country. It respects private property ; but it assumes the right of taxation, and exercises it, as in a case of exigency, by levying a heavy *Contribution*. If the inhabitants pay this contribution, by the Laws of War they are not to be further molested ; and are to be protected in the exercise of agriculture, trade, and art. In such cases, the usual Tribunals are, to some extent, superseded by Military Law ; because, as we have said, the invading Army assumes the functions of the invaded State.

1156. In War, though *Private Property* is respected on Land, it is not spared at Sea. Merchant-vessels and their freight, belonging to citizens of hostile States, become the prize of their captors. There is an evident reason for this difference of the Laws of War, on Land and on Sea ; for a merchant's vessel at Sea is not under the protection of the State, in the same manner as his warehouse on land. To make prize of a merchant-ship, is an obvious way of showing that its own State is unable to protect it at sea ; and thus, is a mode of attacking the State. It has sometimes been proposed that, in time of war, Private Property should be protected at sea, as well as on land ; but there are great difficulties in carrying such a Rule into effect.\* Conventions have, however, sometimes been made between nations to this effect.

\* Manning, *Law of Nations*, B. III., c. iv.

1157. On the other hand, States often grant to private persons, who are willing to fit out a ship at their own expense, *letters of marque*, authorising them to carry on warlike operations against the enemy. Such persons are called *privateers*. Such authority is sometimes given under the name of *reprisals*, as a means of obtaining redress for private wrongs. Such practices make a kind of partisan warfare at sea.

1158. In many other cases, as well as in that of merchants, the fortune of non-combatants is inextricably mixed up with that of the combatants; thus, when a town is besieged, the inhabitants necessarily suffer by the attempts which the besiegers make to overpower the garrison. And sometimes the greatest weight of the misery thus produced may fall upon the peaceable inhabitants; as for instance, when a town is reduced to yield by famine. The horror excited by such cases has led to the suggestion that it should be one of the Laws of War that all non-combatants should be allowed to go out of a blockaded town; and that the general who should refuse to let them pass should be regarded in the same light as one who should murder his prisoners, or should be in the habit of butchering women and children.\*

1159. In order that countries which are the seat of War may enjoy the advantage of the Laws of civilized warfare, it is necessary that they themselves should attend strictly to the distinction of Combatants and Non-combatants. If the inhabitants of the invaded country carry on what is called a *guerilla* or *partisan* warfare against the invaders; the inhabitants, individually, destroying them and their means of action, in any way that they can; such a country cannot be treated according to the more humane Laws of War; for the inhabitants themselves destroy the foundation of such Laws, the distinction of Combatants and Non-combatants. And this re-

\* Arnold, *Lectures on History*, Lect. iv., p. 220.

striction need not interfere with the patriotic zeal which the inhabitants feel, to repel the invaders. For they may enlist in the organized army of their own country; and supply the Government with resources for its defence to the utmost of their power.

1160. It may be asked, whether, on these principles, the Laws of War allow the bombardment of an undefended town, or the laying waste a province with fire and sword. Such proceedings are condemned as odious by international jurists;\* who, however, do not venture to pronounce these violations of the Rights of War. It is evident that, like destroying ships, such acts show that the suffering State cannot defend its subjects. But they belong to a savage and cruel form of war, which all humane and civilized men must desire to see utterly abrogated.

1161. As War has its Laws, it has also its Formalities, which are requisite as a justification of warlike acts. It ought to be preceded by a *Demand of Redress*, and begun by a *Declaration of War*. This formality the Romans called *Clarigatio*. When a place is *blockaded*, neutral persons have no longer a Right to carry thither *Munitions of War*; and hence the Rights of Neutrals are affected by declaring a place in a *State of Blockade*. The Blockaders have a *Right of Search*, in order that they may ascertain whether the Blockade is violated. The Conflict of the Rights of Belligerents and of Neutrals, in this and the like cases, give rise to many questions of International Jus. Others arise from doubts, whether enemy's vessels captured were taken in time of War or not, and the like. For the decision of such questions, there have been established Courts, in which International Law is administered; *Courts of Prize*; *Courts of Admiralty*; *Courts of Maritime Law*.

\* Vattel, B. III., § 169.

1162. Having thus spoken of the Rights of War, I must now notice the International Rights which subsist during Peace. These I must enumerate very briefly, by the aid of well-esteemed writers on the subject: for my object is only to give such a sketch as may show the place which International Jus occupies in a System of Morality.

I shall arrange the Rights of which I have to speak, as International Rights of Property, International Rights of Jurisdiction, International Rights of Intercourse.

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### CHAPTER III.

#### INTERNATIONAL RIGHTS OF PROPERTY.

1163. We have already said (832) that every State has a Right to the National Territory. This is an International Right; and is absolutely and completely valid, as excluding Rights of other States. With regard to the citizens of the State itself, the Right to any part of the Territory is not simple ownership, but that permanent proprietorship which is called *Dominium Eminens* (144), by which the State prescribes the condition on which individuals are to hold and enjoy their possessions.

1164. Nations have come into possession of their present territories by the migrations of the various tribes of mankind (930); and by various other historical events, as conquests, colonies, and the like. Their present Rights rest upon these previous facts; and the fact of the national possession of any Territory, continued and unquestioned, of itself constitutes a Right of possession. *Prescription*, which is a mode

of acquiring a Right for individuals (151), holds also for States.\*

1165. European nations have recognized a national property in uncultivated countries, founded upon the Right of Discovery. Where the land so claimed is inhabited by savages, such a claim of Right goes upon the supposition that a population of savages do not form an organized State which can have International Rights. But this limitation of International Law, and consequently of Morality, is rejected by the more humane views of modern times. The claims of European States to possessions in America, Africa, and Asia, originally founded on discovery or colonization, now rest, not only upon prescription, but also, for the most part, upon subsequent compact.

1166. The Right of Conquest, when it is stated barely as constituting rightful possession, belongs to a condition of International Jus more rude and arbitrary than now prevails. A State which would assert the mere Right of Conquest, would also make war for the mere sake of Conquest; which, as we have said, would justify civilized States in declaring such a State a Common Enemy (1146). But a Conquest, made in a just war, may rightly be considered as in the light of indemnity for wrong suffered; and may be either retained, or used in the negotiations for peace, in order to obtain just terms.

1167. There prevail among nations several Rules and maxims with regard to the Rights of national territory. These Rules have been established by the gradual usage and successive agreements of nations and jurists; and are to be found, with the reasonings respecting them, in works on International Law. It may serve to illustrate the subject if I extract some of these Rules; which I shall do,

\* Wheaton, *International Law*, Part I., ch. iv., p. 206.



principally following Mr. Wheaton's *Elements of International Law*, and Mr. Manning's *Commentaries on the Law of Nations*.

1169. "The maritime territory of every State\* extends to the ports, harbours, bays, mouths of rivers, and adjacent parts of the sea enclosed by headlands belonging to the same State." These must be included, in order to make the territorial jurisdiction continuous.

1169. "The general usage of nations super-adds to this extent of territorial jurisdiction, a distance of a marine league, or as far as a cannon-shot will reach from the shore, along all the coasts of the State. Within these limits, its right of property and territorial jurisdiction are absolute, and exclude those of every other nation."† "The rule of law on this subject is *terraz dominium finitur ubi finitur armorum vis*."

1170. "The exclusive territorial jurisdiction of the British Crown over the enclosed parts of the sea along the coasts of the islands of Great Britain, has immemorially extended to those bays called the *King's Chambers*; i. e. portions of the sea cut off by lines drawn from one promontory to another. A similar jurisprudence is also asserted by the United States over the Delaware Bay, and other bays and estuaries forming portions of their territory." Such regulations are justified on the ground of their being essentially necessary to the security and interests of the State.

1171. Besides such regulations, "a jurisdiction and right of property over certain other portions of the sea have been claimed by different nations, on the ground of immemorial use. Such, for example, was the sovereignty formerly claimed by the republic of Venice over the Adriatic. The maritime supre-

\* Wheaton, Part II., chap. iv.

† See also Grotius, J. B. et P. lib. II., c. lii., § 10.

macy of Great Britain over what are called the Narrow Seas, has generally been asserted merely by requiring certain honour to the British flag, in those seas." The Baltic Sea is claimed as *mare clausum* by the powers bordering on its coasts; and the Euxine was so claimed by Turkey, so long as she exclusively possessed its shores. Denmark asserts a supremacy over the Sound, and the Two Belts, which form the outlet of the Baltic. In opposition to such claims, the Freedom of the Seas is asserted by other States. They have asserted the Right to navigate the High Sea (*mare liberum*), as being essential to the Right of Commerce which belongs to all States.

1172. It is said by the jurists, that when a river flows through the territories of Different States, the *innocent use* of it for commercial purposes belongs to all the nations inhabiting the different parts of its banks; but that this is an *imperfect Right*, and must be regulated by convention.\* Such conventions have been established, for instance, with respect to the Rhine and the Scheldt. We have already said (89) that imperfect Rights are improperly called Rights; and are really moral claims indicating what the other party ought to grant or to do. And it is plain that the general Duty of Humanity would lead a State to allow its neighbours to make such use of its rivers and straits as should be accompanied with no inconvenience to itself. But, as we have already said, by some a general Right of Commerce is asserted, which goes beyond this appeal to humanity.

1173. In time of War, this Right of Commerce comes in conflict with the Rights of War; and the conflict has, in modern times, given rise to many questions of international jurisprudence; and especially as regards Colonies of the belligerent parties. For it has been assumed, by modern European States,

\* Wheaton, P. II., c. iv., § 12.

that they have a Right to direct and limit the trade of their Colonies, as well as of the ports of the Mother-country.

1174. The question of which we have spoken, between the Rights of War, on the one hand, and the Rights of Commerce on the other, implies, among the Rights of War, the Right of seizing the private property of the citizens of the hostile State captured at sea. To this Right, of which we have already spoken, belligerents have added the Right of seizing also the property of neutrals, when taken in hostile ships; and they have expressed their Rule in the maxim, "Enemy's ships make enemy's goods." This Maxim is consistent with what has already been said of the nature of War. All property is in some one's custody; this is in the enemy's custody. We deny their power of custody of property on the sea, and we strike a blow at them as a maritime State, by showing that they do not possess this power. The Neutral must attend to this, and must not place his goods in our enemy's vessels, except he is willing to share their fate.

1175. The Rights of Commerce are asserted in a Maxim similar in form to the one just stated; namely this; "Neutral ships make neutral goods;" or, "Free bottoms, free goods." But it is plain that this maxim must be limited and modified, or it might be used as a powerful mode of warfare. Thus\* belligerents have a Right to prevent neutrals from carrying to an enemy munitions of war. It is no interference with the Right of a third person to say that he shall not carry to my enemy instruments with which I am to be attacked. On the contrary, such Commerce is a deviation from neutrality; (or at least would be so, if it were the act of the State). If we allow neutral ships to be inviolable when they carry to the enemy

\* Manning, B. III., c. vii.

the means of warfare, they, though professedly not parties to the contest, may greatly damage one of the belligerents, and transfer the success to the other side. Hence, belligerents have a Right to prevent neutrals to carry to either party goods which do not affect him in his belligerent character ; but military stores are prohibited, under the title of *Contraband of War*.

- 1176. Again, belligerents have, by the Laws of War, a Right to put a place in a state of *blockade*, and then to prohibit neutrals from entering it. Neutrals, who violate this Rule, are liable to confiscation for *breach of blockade*. According to modern practice,\* in order that a party may be liable to punishment for breach of blockade, three things are requisite to be proved :—the actual existence of the blockade :—that the party offending knew of it :—that he commit some act which was a breach of it. The definition of blockade is given in various Treaties. It is generally agreed, that a mere declaration cannot constitute a blockade : it must be actually enforced by a continued circuit of troops and ships. -

1177. The maxim, that “ free ships make free goods,” has been a subject of much discussion in modern times, having been asserted by Confederacies calling themselves “ Armed Neutralities,” in opposition to the claims of Belligerents. Belligerents, seizing the property of an enemy on board a neutral ship, have, on their side, both the ancient authorities, and the usually received Principles of the Law of Nations. In opposition to the Right of Commerce, urged on the side of the above maxim, it is replied, that the Rights of War suspend many of the Rights of Commerce, as when they authorize seizure of contraband of war, or confiscation of a ship for breach of blockade. And the general Rule must be, that

\* Manning, B. III., c. ix.

all Rights of Commerce are suspended, which, being nominally neutral, are really favourable to one of the belligerent parties. Now to carry goods for an enemy, who is so weak at sea, as not to be able to carry for himself, is to give him a great advantage. It deprives the stronger naval power of the benefit of his superiority. The Belligerent cannot be required to allow this. When it is urged, on the other side, that a Neutral has a Right to trade with both parties; it is replied, that he may trade *with both*, but not *for one*. If he gives his protection to the property of one of the belligerents, who is too weak to protect it himself, he makes himself his Ally, and is no longer neutral. An argument sometimes urged on this side is, that a ship is like a part of the territory of the state to which it belongs, and as such, not to be violated by the belligerent: but it is plain that this analogy is too loose to be of any force. If the doctrine were true, it would be a violation of neutral Rights to seize contraband of war in the ship, or to resist breach of blockade. And it is plain that the analogy does not hold in other cases; for when a ship comes into a foreign port, she and all on board are subject to the jurisdiction of the foreign state.

1178. There is another kind of limitation of the maxim, "*free vessels make free goods*," which has also excited much discussion in modern times. This limitation has been termed the "*Rule of 1756*,"\* and is thus stated: "Neutrals are not allowed to engage in a trade with the colonies of belligerents during war, which trade is not allowed them during peace." In virtue of this Rule, the Stronger Naval belligerent power enforces, during war, in order to distress its enemy, the same restrictions on commerce with the Colonies of the Weaker, which the Weaker itself had during peace enforced, in order to its own

\* Manning, B. III., c. v.

advantage. For, in all cases, European governments have, during peace, excluded other countries from the carrying trade between them and their colonies.\* But in the Seven-years' War, begun in 1756, the French were prevented, by the maritime superiority of the British, from carrying on their colonial trade themselves. Upon this, they threw open the trade to neutrals; but Great Britain denied that neutrals had a Right to such a trade, and therefore acted upon the Rule of 1756 just stated. The consistency of the Rule with the common Rights of war, is evident. Such an interposition of neutrals as was here attempted, was a manifest assistance to France. It enabled Colonies to hold out, which must otherwise have surrendered; supplied the mother-country with colonial produce and revenue; and enabled her to withdraw sailors from her merchant-service to man her fleet. It was a trade which the neutral had not possessed before the war; and possessed, during the war, only in virtue of the British naval superiority; and which they would lose again on the restoration of peace. The neutrals exercise such a trade under the protection of the stronger naval power, and entirely to his damage. The prohibition of such a trade is no doubt a limitation of the Rights of Commerce; but, in this respect, the prohibition of a neutral supplying the suppressed colonial trade of the weaker naval belligerent, does not differ from the prohibition of a neutral supplying a blockaded town with food, or a defeated belligerent with arms. In such cases, the Rights of War supersede the Rights of Commerce, in order that the operations of War may not become futile.

1179. The Right of Visitation or Search of neutral vessels at sea,† is a belligerent Right, essential to the exercise of the Right of capturing ene-

\* Ibid.

† Wheaton, P. iv., c. iii., § 26

miles' property, contraband of war, and vessels committing breach of blockade. Even if the Right of capturing enemies' property be ever so strictly limited, and the Rule of "free ships, free goods," be adopted, still the Right of Visitation and Search is essential, in order to determine whether the ships themselves are neutral. It is conformable to the Law of Nations to detain a neutral vessel, in order to ascertain, not by the flag merely, which may be fraudulently assumed, but by the documents on board, whether she is really neutral. Indeed, the practice of maritime Capture could hardly exist without this Right. Accordingly, the writers on the subject concur in recognizing the existence of this Right. But it is to be observed, that we here speak of it only as a Right of Belligerents.

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## CHAPTER IV.

### INTERNATIONAL RIGHTS OF JURISDICTION.

1140. Within its own territory, every State has complete and exclusive jurisdiction. The Laws are made, and the administration of them directed, by the State; and speaking generally, this administration extends to foreigners, so long as they are in the territory, no less than to natives. The practice and Treaties of nations may have introduced exceptions; but this is the general Rule.

1141. How far the jurisdiction of a State extends over its subjects, when they are out of the limits of all States, as for instance, when they are in a ship on the High Seas, is a question of International Law. As we have already said, it is maintained by some writers that the ship, wherever it may be, is w

be considered as a part of the territory of the State : a sort of floating Colony. This is one mode of expressing a Rule which is assented to by all :\*—That both the public and private vessels of every nation, on the high seas, and out of the territorial limits of another State, are subject to the jurisdiction of the State to which they belong. But if we say that this is because the vessel is a part of the national territory, we express this Rule in such a way as to contradict other Rules generally agreed to. For if the ship were really national territory ; contraband of war, or enemy's goods, could not rightfully be seized within it ; which, by acknowledged International Law, they may.

1182. A State has an exclusive jurisdiction over its vessels on the high seas, so far as respects offences against its own laws. But there are certain offences which are violations, not of the Law of any single State, but of International Law ; as *Piracy*. The offence of depredating on the high seas without being authorized by any Sovereign State. This is a crime, not against any particular State, but against all mankind ; and may be punished by the competent tribunal of any country where the offender may be found, or into which he may be carried, though committed on the high seas.

1183. Hence, when a State declares an offence *Piracy*, it declares that persons committing this offence may be lawfully captured on the high seas by the armed vessels of any State, and carried within the territorial jurisdiction of the captors for trial. And if the nations of Europe and America were to agree in declaring an offence, the Slave-trade, for instance, to be *Piracy*, vessels detected in the practice of the Slave-trade might be captured and condemned by any State which had the means of doing this.

\* Wheaton, Vol. i., 152.



1184. The International Law of Europe and America appears to be approaching this point, but has not yet reached it. The Slave-trade has been declared a crime by every Christian nation. It has been declared piratical by many treaties between nations. An American vessel engaged in the trade has been condemned by an English prize-court.\* For the trade having been prohibited by the Laws of both countries, and having been declared to be contrary to the principles of justice and humanity, the Judge decided that it was necessarily illegal. But in more recent cases, it has been decided by Judges that the Slave-trade is not a criminal traffic by the general law of nations; that each person can be judged for it only by the tribunals of his own country, except so far as the treaties of nations provide other jurisdictions. The Judge† said that no one nation had a Right to force a way to the liberation of Africa by trampling on the independence of other States; or to procure eminent good by means that were unlawful; or to press forward to a great principle, by breaking through other great principles that stood in the way. But it must be remarked, on the other side, that there is great moral inconsistency in those States which declare the Slave-trade to be a crime, and express horror at the atrocities to which it leads; and who yet refuse to join in such an improvement of International Law, as would enable the powerful maritime nations altogether to suppress this traffic.

1185. The suspicion of a piratical character in a vessel, authorizes a stronger vessel to search the suspected ship. For if merely showing the flag of a State at peace with that of the stronger vessel, would suffice to pass the suspected ship unquestioned, no pirate need ever submit to be taken. Hence, the

\* Wheaton, P. II., c. xi. § 17.      † Lord Stowell.

question as to whether the Slave-trade is to be treated as being Piracy by International Law, leads to the question whether the Right of Search for the suppression of the Slave-trade exists by International Law. The Right of Mutual Search for this purpose has been established by treaties between several nations in modern times;\* and probably the Moralists of all Countries will agree with the English Moralist,† who said that he felt a pride in the British flag being, for this purpose alone, subjected to search by foreign ships. It had, he said, risen to loftier honour by bending to the cause of justice and humanity.

1186. Besides its jurisdiction over its subjects on the high seas, there are cases in which by the usage of nations, the jurisdiction of one State, more or less modified, extends into the territory of another. Thus, the person of a Sovereign going into the territory of a foreign State in time of peace, is, by the general usage and Comity of Nations, exempt from the ordinary local jurisdiction. And the person of an Ambassador, whilst within the territory of the State to which he is delegated, is in like manner exempt from the local jurisdiction. His residence is considered as a continued residence in his own country: and he retains his national character, unmixed with that of the country where he locally resides. Also by particular treaties between Countries, the Consuls, and other Commercial Agents, which a State appoints in a foreign country, are authorized to exercise a jurisdiction on the part of the State which appoints them. The nature and extent of this jurisdiction depends upon the stipulations of the treaties. Among Christian nations, it is generally confined to civil causes among merchants and seamen, to matters relating to Contracts and Wills, and the like. But the resident Consuls of Christian

\* Manning, B. III., ch., xi., p. 376.  
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† Mackintosh.

powers in some Mohammedan Countries, exercises both civil and criminal jurisdiction over their Countrymen; though this jurisdiction is of a limited kind. To these cases of exceptions to the territorial jurisdiction of a State, are added a foreign army, marching through the country, or stationed in it; and foreign ships of war in its ports, the two States being in amity. But the private vessels of one State entering the ports of another, are not exempt from the local jurisdiction, except so far as compact exempts them.

1187. With the exceptions just stated, the two leading Maxims of International Law, as it regards Jurisdiction, are generally admitted: *First*, that the Laws of a State have force within the limits of its own government, and bind all the subjects thereof, but have no force beyond those limits; *Second*, that all persons who are found within the limits of a government, whether their residence is permanent or temporary, are to be deemed subjects thereof.\*

1188. Thus the inhabitants of each State are ruled by their own Laws. But this does not suffice for all the occasions of human action. Men of different countries have intercourse of various kinds with each other. Men travel from one country to another. As they move, they carry with them characters and attributes which have been assigned to them by the laws of their own country; as rank, wealth, wife, legitimate children, contracts. We cannot avoid inquiring how far these characters and attributes are modified by the transition from one country to another, in which the Laws respecting them are different. And here, we find that States in general have agreed to a Maxim which gives, in all common cases, stability and permanence to the conditions and relations of men. This Maxim (the

\* Story's *Conflict of Laws*, p. 30.

*Third* in addition to the First and Second which we have mentioned) is as follows. The Laws which are of force within the limits of a State are allowed to have the same force in other States also, so far as they do not interfere with the powers or rights of those States or of their citizens. This extra-territorial efficacy is granted to the Laws of States, by a general disposition to further each other's ends, which is called the *Comity of Nations*.

1189. It has been thought by some jurists\* that the term "Comity" is not sufficiently expressive of the Obligation of a Nation to give effect to the Laws of foreign nations when they do not interfere with its own. It has been said that it is not a matter of Comity, or Courtesy, but of Duty. And undoubtedly it is a Duty of every State to give effect to the Laws of other States, so far as they are means of promoting Justice, Humanity, Truth, Purity, Order. But this Duty cannot be said to amount to an Obligation (of the kind often called a perfect Obligation); for if withheld, it cannot be enforced. One Nation cannot assert a Right to have its Laws made effective within the territory of another State, and without the State's Consent. The practice of giving to Laws this extra-territorial effect prevails, not in virtue of the Rights of Nations, but of their Moral Claims on each other, and of their Mutual Duty. And this Duty is called *Comity*, rather than by any name implying a higher Morality, because a State, in carrying into effect the Laws of a foreign nation, does not pretend that they are necessarily good and moral Laws; which, with regard to its own Laws, it does pretend. The great ends of Law, the security of person and property, the observance of good faith, the stability of family ties, these are the common objects of all States in their Laws and

\* Story's *Conf.*, 33.

Administration. The Laws of foreign States, with regard to Protection, and Property, and Contracts, and Marriages, may be different from our own. We (the State) cannot pretend to say that they are good in the same manner that our own are; but we will not dwell upon this doubt; we will take for granted that they answer the ends of Law; we will recognize and assist their operation on that assumption. This is the spirit in which nations adopt the Maxim which we have stated; and this spirit of action appears to be better described by calling it the *Comity* or *Courtesy* of Nations, than if we were to say that such a practice is followed in virtue of the Mutual Rights of Nations; for these Rights are not acknowledged to this extent; or in virtue of their Mutual Duties: for this would imply that it would be wrong not to accept the foreign Law; a doctrine which would too much infringe the special respect with which the State looks upon its own Law. Courtesy is a Duty, but a Duty which must give way, when it comes into conflict with higher Duties, in which the distinction of right and wrong is concerned: and such a Duty is the Comity of Nations.

1190. Since there are thus many Cases to which foreign as well as domestic Laws apply, it must often happen that doubts and apparent contradictions occur, as to which Law is to be followed in a particular Case; there will be a *Conflict of Laws*. Examples of such difficulties occur in the following Questions: May a Contract which is valid by the Laws of the country when it is made, be enforced in a country where such Contracts are invalid, or illegal? May a Marriage between persons of full age, according to the laws of one country, be dissolved by their removing into another country by whose laws they are still minors? If a person has Property in one country and Debts in another, according to what laws are his creditors to be paid? Such ques-

tions arise in endless number. They cannot be decided without the establishment of some general maxims on the subject of the Conflict of Laws. To lay down, however, and to apply such Maxims, is the office of works written expressly on this subject, and to them we must refer. I may notice, as a work of great value on the subject, Judge Story's *Conflict of Laws*; and in this, the reader will find the other standard works on the subject, quoted and discussed.

1191. I may however very briefly state some of the Maxims which have been generally accepted on this subject.

With regard to immovable property (land and the like) the law of the place where it is situate, governs in everything relating to the tenure, the title, and the forms of conveyance. Hence, a deed or will of real property, executed in a foreign country, must be executed with the formalities required by the local laws of the State where the land lies. This Rule is termed *Lex loci rei sitæ*.\*

1192. With regard to movable property (money and goods), the modes of conveyance and the like are principally governed by the home or domicile of the party. This Rule is the *Lex domicilii*.

1193. It becomes necessary to lay down some Rule for the determination of the National Domicile of a person; for there may be instances in which, from change of residence, or from having several places of abode, a person's domicile may be doubtful. The definition given by jurists† is, that the Domicile is a person's principal residence, to which, when absent from it, he always retains an intention of returning (*animus revertendi*). To this general Rule, others, applicable to particular cases, are subordinate, but we need not dwell upon such details.

\* Wheaton, Vol. i., 136.

† Story, § 41.

1194. With regard to Contracts, the general Rule is, that a Contract valid by the Law of the place where it is made, is valid everywhere else. This Rule, established by the general comity and mutual convenience of nations, is termed *Lex loci contractus*.

1195. But again,\* every sovereign State has the exclusive right of regulating the proceedings in its own courts of justice. This Rule is *Lex fori*. And the *Lex loci contractus* of another country cannot apply to such cases as are properly determined by the *Lex fori* of that State where the contract is brought in question. Thus, if a Contract made in one Country is attempted to be enforced, or comes incidentally in question in the judicial tribunals of another, everything relating to the forms of proceeding, the rules of evidence, and of limitation or prescription, is to be determined by the law of the State where the suit is pending, and not of that where the Contract was made.

1196. The municipal laws † of most countries prohibit foreigners from holding Land within the territory of the State, because in most countries the Rights of Government are connected with the tenure of land, as was the case in Europe under the feudal system. In that case, the acquisition of land involved the notion of allegiance to the Sovereign within whose dominions it lay, which might be inconsistent with the allegiance which the proprietor owed to his native sovereign.

1197. The right of Succession, like the right of real property, was conceived to depend on the State, and to be a creature of the State. Hence, this right was denied to foreigners dying in the Country; and the Sovereign of the Country took their property. This Right of the Sovereign, as it existed in France,

\* Wheaton, i., 140

† Wheaton, p. 138.

Allegiance is due to each Sovereign, and how far this tie may be cast aside or transferred.

1202. There are two extreme opinions on this latter point. According to one, the tie which connects a man with his country, like the tie which connects him with his family, can never be abolished. His original country is his Mother, in spite of all that he can do. According to the other view, a man's connexion with any Community, is of a voluntary kind. At a mature age, and with due formalities, he may choose a country for himself. But this latter view, though it has been asserted by theoretical writers, has never been recognized in the practical legislation of States. The ancient Jurists had a maxim that no one can divest himself of his country: *Nemo potest exuere patriam*. The Common Law of England was to the same effect, that all the King's natural born subjects owed him an allegiance which they could not cast off. It is held\* that it is not in the power of any private subject to shake off his allegiance, and to transfer it to a foreign prince: nor is it in the power of any foreign prince, by naturalizing or employing a subject of Great Britain, to dissolve the bond of Allegiance. Entering into a foreign service without consent, is a misdemeanour: taking a commission from a foreign prince, and acting against the King, is treason. The United States of America, and other new States, have made various provisions for admitting new citizens into their community. But they have not, in general, left it to citizens at liberty arbitrarily to cast off the tie which connects them with their country. The Courts of the United States have had the question before them;† and the Opinion which there is, that a citizen cannot renounce his allegiance to the United States, without the permission

\* *Commentaries*, II., 42.      † Kent, II., 48.



of government, to be declared by law. Also the Law of France does not allow a Frenchman so far to expatriate himself as to bear arms against his country.

1203. It may be inquired, From whom is this Allegiance due? Who are the subjects of a State? According to the old Law of England, all persons born within the King's dominions are his natural born subjects, and all persons born abroad are aliens. But more recent laws have given the rights of natural born subjects to all children, born out of the King's allegiance, whose fathers, or grandfathers by the father's side, were natural born subjects.\* Rules more or less resembling this prevail in other States.

1204. Besides this natural allegiance, jurists† recognize a *Local Allegiance*, which is due from an alien or stranger, so long as he continues within the dominions, and therefore under the protection of the State. And as this Allegiance, by which they are required to abstain from injuring the State in which they reside, is demanded of strangers; so are they allowed, in a temporary manner, some of the Rights of citizens. Thus a subject of one country may, for commercial purposes, acquire the Rights of the citizen of another. He has a *Commercial Domicile*, and this domicile determines the character of the party as to trade.‡

\* Blacket., i., 373.

† Blacket., i., 370.

‡ Kent, ii., 49.

## CHAPTER V.

## INTERNATIONAL RIGHTS OF INTERCOURSE.

1205. ACCORDING to International Jus, nations are regarded as distinct moral agents, capable of acting for or against each other, of contracting with each other, and the like. Hence they must have certain National Modes of Intercourse with each other; not merely such as consist in the citizens of one State communicating with the citizens of another; but in the States themselves communicating with each other, by persons who speak and act on their part. Such Intercourse is naturally under the direction of the *Executive* branch of the Government, as being that branch which acts for the State. But, for the most part, the communications with foreign States are not made directly by the Sovereign, as a part of his general administrative office, but by Ambassadors or other Ministers of the State, deputed for that express purpose.

1206. Every State considered as an Independent State, has the power of negotiating and contracting Public Treaties with other Independent States. For this purpose, every Independent State has a right to send Public Ministers, and to receive Ministers from any other Sovereign State. No State is, strictly speaking, obliged, by the positive Law of Nations, to send or receive public ministers. But universal usage, the result of the Comity of Nations, has established this as a reciprocal Duty. Such being the Duty of every nation on the ground of Comity, it is what has been called an Imperfect Obligation. It may not and cannot be enforced as a Right; but the State which refuses to conform to the usage, has no longer any claim to receive the

benefits of the Law of Nations. *The Right of Legation* is a part of existing International Law.

1207. When States are not absolutely sovereign and independent, but semi-sovereign, or dependent, or united by federations of various kinds, it must be determined, by their relation to their superior, or their compact with each other, how far they possess this Right of Legation. Thus England, or Ireland, or Scotland, cannot send Ambassadors or Ministers to a foreign State, distinct from the Ministers of Great Britain. Nor can the Colonies, as Canada or Australia. The United States of North America, though each, for many internal purposes, sovereign, are restrained by their federal Union from treating separately with foreign powers. But the States of the German Federation send their separate ambassadors. When, in the course of historical events, several States coalesce into one, as by legislative union, or by conquest; or when one State is divided into several, as by revolt, revolution, or common consent; it is the business of other States to determine when each new State assumes a distinct and real existence; and they recognize this existence by receiving Ministers from it and sending Ministers to it. The same is the mode of recognizing the actual authority of a new Government, in a State which has undergone an internal Revolution.

1208. In deciding upon such recognitions of new States and new Governments, the Governors of a Nation, if they would act for the Nation in its highest character of a moral agent, capable of Justice, Humanity, Magnanimity, Love of Order, and Love of Liberty, will not make their recognition of the New Government depend upon mere caprice, or upon any low views of their national interest: but will regard it as a jural and moral question: as a point to be decided according to the best existing Rules of International Law, and without losing sight,

in the decision, of the prospect of raising the standard of International Law; for this prospect, all States must have before them, as the highest aim of their actions.

1209. The modern usage of Europe has introduced into the customary Law of Nations certain distinctions of various kinds of Public Ministers: and at the Congresses of Vienna and of Aix-la-Chapelle an uniform Rule was adopted for this subject. By this Rule public ministers are divided into the four following classes:\*

1. Ambassadors and Papal Legates or Nuncios.
2. Envoys Extraordinary, Ministers Plenipotentiary, and Internuncios.
3. Ministers Resident accredited to Sovereigns.
4. Chargés d'affaires accredited to the Minister of Foreign Affairs.

1210. Ambassadors possess a *representative* character; they are considered as representing the Sovereign or State by whom they are delegated, and receive peculiar honours on this ground. Formerly a *Solemn Entry* of the Ambassador was customary, but they are now received at a private audience, in the same manner as other Ministers.

1211. The Powers, Credentials, Privileges, and Modes of acting for their nation which belong to its Public Ministers abroad, need not be here dwelt upon. The Right of directing their actions, of negotiating and concluding Treaties, belongs, as we have said, to the Executive at home. But though the Executive thus makes the Contracts of the State with other States, the assent and co-operation of the Legislature may often be requisite to give effect to such Contracts. Thus, in Treaties requiring the appropriation of monies for their execution, it is the usual practice of the British Government to stipulate that

\* Wheaton, i., 263.

the King will recommend to Parliament to make the grant necessary for that purpose. Under the Constitution of the United States, by which treaties made and ratified by the President, with the advice and consent of the Senate, are declared to be "the Supreme Law of the land," it seems to be understood that Congress is bound to redeem the national faith thus pledged, and to pass the laws necessary to carry the treaty into effect.\*

1212. The General Contracts between nations are divided into two classes: *Transitory Conventions*, such as treaties of cession, boundary, exchange of territory, and the like; and *Treaties* properly so called, *Fœdera*; such as those of friendship and alliance, commerce and navigation. The first class are perpetual in their nature; and once carried into effect, subsist, notwithstanding revolutions within the State, and wars without. The second class are interrupted by war, and extinguished by the extinction of one of the contracting parties as an Independent State. Most international Compacts contain Articles of both kinds; such is the case especially with most Treaties of Peace. Treaties of Alliance are either Defensive, when each ally engages to assist the other in repelling aggression; or Offensive, when an ally engages to co-operate with the other in a specified kind of hostilities. When the Alliance is Defensive, one of the allies cannot claim the assistance of the other in an aggressive war; such a war is not the *casus fœderis*.†

1213. The Convention of *Guarantee* is one of the most usual international Contracts. It is an engagement by which one State promises to aid another, when interrupted, or threatened to be disturbed, in the peaceable enjoyment of its Rights, by a third Power. Guarantee may be applied to every species

\* Wheaton, 1., 296.

† Ibid. 1., 306.

of Right and Obligation which can exist between nations: to the possession and boundaries of territories, the Sovereignty of the State, the right of Succession, &c.

1214. But if a State assumes the character of Guarantee for one of the Parties in another State; if, for instance, it engages to protect the Sovereign against the revolt of the Subjects, or the Subjects against the tyranny of the Sovereign, the transaction is then of another kind. It is an *Intervention* which necessarily interferes with the independence of the State thus dealt with. Such an Intervention may be necessary for the safety of neighbouring States; but is only justifiable in a Case of Necessity, and is not to be looked upon as one of the ordinary Cases of International Jus. A Sovereign may be wrongfully dethroned, and a foreign State may aid him as his ally against a hostile faction. He may be rightly dethroned, and a foreign Sovereign may probably aid those who, in a Case of Necessity, deprive him of his office. A nation may resist a usurper, and a foreign Sovereign may properly aid the nation in such a cause; or a nation may proclaim doctrines which make all exercise of international jus impossible, and other nations may hence refuse international intercourse with this, and may thus be driven into war. All these are Cases in which Intervention may possibly be justified by necessity, according to the circumstances of the Case. But for these, as for other Cases of Necessity, it is impossible to lay down Rules beforehand.

1215. States have hitherto been much impelled in their public transactions by their views of their own particular interest. Yet there have not been wanting, in the history of nations, many acts of justice, of magnanimity, and of humanity. The negotiations of States and the reasonings of jurists seem to show, that International Law rises gradually to a

higher moral Standard. The declarations of all civilized States against the Slave-trade, although hitherto imperfectly carried into effect, are a recognition of the principle of Humanity in the public Law, to an extent which places modern far before ancient times, in this respect. The abolition of Slavery in the West Indies, carried into effect by Great Britain at a very great cost, is another strong evidence of the growing influence of such Principles in public acts. On several occasions in recent times, the Great Powers of Europe have acted and negotiated as if they deemed themselves bound, by a tacit Convention, to guarantee the Liberty and Order of Nations, and the preservation of Peace.

1216. If States continue firmly and consistently to pursue this Course, applying to themselves the same Rules of Justice and Humanity which they require their weaker neighbours to observe ; there appears to be no reason to despair of the realization of the most equitable and moral codes of International Law which Jurists have ever promulgated ; nor of the indefinite moral elevation and purification of such Codes, in proportion as the characters of Nations are elevated and purified by the practice of the political virtues.





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